



## **Art 2 TEU**



The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.



## The Hague International City of Peace and Justice

<https://archive.org/details/den-haag-internationale-stad-vrede-en-recht>



## NATO Summit 24-25 June 2025, The Hague Netherlands



Photo: ifud of human rights / under license Alamy. NATO Secretary General Mark Rutte billboard.

The Netherlands does everything to present itself to the rest of the world as The Hague, city of justice and peace, and as a country that is committed to human rights. That may well cost a bit. Nothing has been cut to make everything work and to keep it on track.

## Proactive action by the Dutch State

The fact that the Netherlands is making an additional 3 million euros available for the International Criminal Court (ICC). As an additional contribution to support the independent and unbiased work of the ICC, including the investigation and prosecution of war criminals. As well as the fact that the Dutch government has allocated more than 8.5 million euros in the past for the establishment of the Holocaust Museum in Amsterdam, and that the Cabinet has allocated 4.5 million euros for a new approach to anti-Semitism by also establishing a Taskforce Combating Anti-Semitism. That is not yet a carte blanche for the photoshopped images of photoshopped images on the internet of a former chairman of the College of Attorney Generals Wijkerslooth, Donner and Mark Rutte - portrayed as Nazis - to avoid having to take action. Likewise the genocide by Israel. Government officials have an important exemplary function, (the blue book Manual for government officials). The State cannot shift 100 percent of its responsibility in combating online hatred onto the tech companies. The State also has obligations under European and international treaties.

## Immunity of members of the European Parliament and the European Commission

Members of the European Parliament (EP) enjoy two categories of immunity: non-liability for votes cast and opinions expressed in the exercise of their duties (absolute immunity), - and protection against prosecution and restrictions on their personal freedom during sessions of the European Parliament (inviolability or relative immunity). Whereas this provision guarantees that Members of the European Parliament enjoy in principle the right to freedom of expression, but whereas this right does not give carte blanche to commit defamation, insult, incitement to hatred, slanderous or other offensive statements contrary to Article 21 of the Charter of Fundamental Rights of the European Union; whereas the provisions on parliamentary immunity must be interpreted in the light of the values, objectives and principles of the European Treaties.



## Foreword

The chairman of IFUD of Human Rights has in the past made various oath-declarations in notarial deeds at the notary. The notarial oath-declarations about the system and the rule of law explicitly concern the actual implementation and functioning of the Dutch rule of law. The fact that the Dutch State is a rule of law and democracy by law does not detract from this. The Dutch government has contributed to the creation of the Universal Declaration of Human Rights, as laid down by the United Nations Organization (UNO) in the year nineteen hundred and forty-eight. Article 25 of that declaration contains a number of conditions, which conditions the Dutch State has promised to adhere to. With the exception of a few, Dutch national politics is a bunch of miserable paternalists who, together with the guild of professional porters, lay hands on their own fatherland and then on the people! This is the success of a band of privateers who can justify the theft that has been committed. Incomprehensible and miraculous. The ugliest thing that can remain in the life of man is the yoke of slavery. In the Netherlands this is the sham democracy and a constitutional state whose foundations have been completely undermined. The current social order in the Netherlands is rather characterized by fundamental conflicts of interest. This can only be changed by fundamental restructuring of the social system, for which a conflict strategy in a planned change often appears to be necessary in order to achieve results. After all, the current rulers will do everything in their power to maintain the status quo, since that serves their own interests the most. The powerful union power monopolies in particular cause great damage to the public. They are therefore suspect in advance, because they are branded as the sheepskin-clad enforcers of a condemned social order and a condemned social system. In these decision-making structures of these authoritarian cooperation strategists, in which decisions are taken over the heads of the people affected by them, they neglect their function and task and in fact even commit overexploitation in their environment. In this sinister world virtue is not rewarded; high incomes are a sign of successful deceit. Profit is a symptom of exploitation, interest from an unemployed and therefore immoral existence. The authorities willingly allow democratization exercises at the base, so that they can calmly continue with their decision-making game. (given the nature and position of the Dutch State (the goodwill interests), that the State will maintain the status quo as long as possible, and therefore for that reason will not be accountable for any Law, Treaty, (IFUD or Human Rights).

- hate crimes
- discrimination
- human rights violations
- embezzlement and withholding of important information
- selective use of laws and treaties
- form an exclusive network that excludes others
- network corruption, members are very loyal and supportive and do not allow criticism
- shadow system, sham democracy
- financially motivated white collar crime
- complicity of the Dutch State in political support for the illegal war in Iraq in 2003
- economic-social euthanasia
- complicity in Israeli genocide 2023-2025
- violation of Lanzarote Treaty

Members of Parliament

Members of the House of Representatives of the States General and J&V 2025 under the Schoof 1 cabinet

<https://archive.org/details/kamerleden-tweede-kamer-der-staten-generaal-2025>



## About devil worshipping figures and child sexual abuse

In the Netherlands and the rest of the world, child sexual abuse is known, including from within the Roman Catholic Church organization, Yehova's Witnesses, there is also evidence of this. Political elite, including late Prince Claus, Mark Rutte, Jan Peter Balkenende, can be associated with devil worshipping figures in higher echelons, there is proof of that. Dutch government itself breeding ground for disinformation and conspiracy myths: Queen Beatrix visited Prince Claus' office in the past in 1985 after she had just opened the new Ministry of Foreign Affairs. On the wall of Prince Claus' office, a ram's head can be seen in photos, which is known as Baphomet, an occult symbol that represents the devil or Satan. | Source: National Archives, CCO [May 7, 1985 | In 2010 a report by the NOS, tour video of the office "tower" of the new Prime Minister Mark Rutte. On the wall is a ram's head that Rutte says in the report he is personally proud of, because it was still a legacy of Jan Peter Balkenende that was still hanging there.

Subject: (authentic material national archive 1985 and NOS 2010.

Freemasonry appears to be an occult club.

The transnational super lodges are supervised by an elite global elite formed by very exclusive family dynasties. Anyone who aspires to a career in politics and wants to reach the top must become a member of the super lodges. Climbing the political ladder is impossible without being a member of one or more of these super lodges. All high-ranking politicians from the United States, Russia, Israel, Iran, Saudi Arabia, China and Europe are members of one or more of the super lodges. Not only Vladimir Putin, Angela Merkel, Emmanuel Macron, Tony Blair, George W.

Bush, Hillary Clinton and Barack Obama, but also Jan Peter Balkenende, Mark Rutte and Jeroen Dijsselbloem are members of the super lodges. There is also a close entanglement of Freemasonry with the European political leaders that remains hidden from the eyes of the outside world. One of the most powerful European Super Lodges is the Pan-Europa. Within the super lodges one finds names such as Mario Draghi. He is a member of five different super lodges. Christine Lagarde, Jean-Claude Juncker, Mark Rutte, Henk Kamp, Ben van Beurden, CEO of Rothschild's 'Royal Dutch' and Klaas Knot are members of the lodge Pan-Europa. Well-known Dutch people who have joined other Ur-Lodges are Jan Peter Balkenende, Jeroen Dijsselbloem and Ben van Beurden. The group that Mark Rutte belongs to is one of the most scary. It is also one of the most powerful and is concerned with the perfection of the Nazi Superstate and the destruction of the sovereignty and identity of the European countries. The objective that states that Freemasonry constantly strives for a development of mind and spirit and the building of a better world is only a cover for the real goals that the Order strives for. This club also contributes, as mentioned, to the establishment of the New World Order. In America, Freemasons hold top positions in all major companies. Every person who is not a member of the club is considered narrow-minded, unhappy and blinded. According to Freemasonry, these people live 'in the dark'. The influence of Freemasonry in American politics can no longer be ignored. From George Washington to George W. Bush, there have only been two American presidents who did not belong to this society. The most influential Freemason organization in America is the Scottish Rite (the American version of European Freemasonry).

Source: Franklin ter Horst

Lodge the trowel "freemasonry":

On the internet you can find the most extraordinary stories about Freemasonry, with subjects ranging from Satanism to Illuminati, that we have a double agenda to take over the world, that Freemasons hold the highest positions, you name it. Literally everywhere

would Freemasonry be behind the controls. In fact, there is nothing mysterious about Freemasonry. We are just an association with statutes, a chairman, treasurer and secretary and hold a general members meeting twice a year like any other association. Our statutes, annual accounts and ANBI information are simply on our website. What we do keep 'secret' are the 3 most important rituals, namely those of initiation to Apprentice, promotion to Fellow and elevation to Master. And the only reason we keep them secret is because this is a gift for the member who takes his step to the next degree. If you receive a gift and the giver immediately tells you what is in it, then it is a lot less fun, right? And if you really want to know what such a ritual looks like, just search the internet, you can easily find them.

Source: the trowel, August 8, 2020

The next question is, whether there is also a secret organization of Satanism, and yet another question?... whether these Satanists ritually sexually abuse children. Of course, explicit evidence must be provided for this, and not just stories from books or perhaps from conspiracy stories that appear on social media. In 1994, a Critical analysis by a Belgian priest appeared about the power structure of the Roman Catholic Church and the injustice that is done to people because of it, words such as sexual abuse were included here and Opus Dei, ISBN: 9789063035686, publisher Kritak.

NOS News•Wednesday, December 21, 2022

Hendriks Commission: no hard evidence of organised ritual child abuse in the Netherlands.

There is organised and very violent child abuse in the Netherlands, but there is no hard evidence that there are active networks that abuse children in a ritual or satanic manner.

This was written by a committee that, at the request of politicians, conducted an investigation into sadistic abuse of minors.

The investigation was prompted, among other things, by a 2020 broadcast of the VPRO radio program *Argos*, in which several victims told their stories. They spoke of serious sexual abuse, torture and even the sacrifice of babies. The House of Representatives subsequently urged an investigation into the nature and extent of the phenomenon. There was, and is, much discussion as to whether the reports are entirely true.

*Some conspiracy theories are based on the idea that governments worldwide are in the hands of a powerful cabal combined with greed and money with a pedophile bloodlust for children. A Devilish global elite that controls thousands of compromised, bought and blackmailed puppet politicians, bankers, judges, CEOs, military generals, entertainers, top level spies and police chiefs.*

There is also a counter-voice in society. There is indeed evidence of a cover-up culture when it comes to sexual child abuse in the Netherlands. A recognizable pattern of reprehensible actions by government, police and justice, which frustrate reports, undermine the credibility of victims and researchers. All this under the banner of the Dutch State. And in the meantime, that same State pretends with its reports to the United Nations that everything is functioning properly. According to alleged victims, Jan Hendriks was found unfit to earn trust and therefore to set up a competent investigation into ritual (satanic) abuse in the Netherlands. Hendriks quotes from the Parool article "Professor: make manipulated child pornography available" Editorial staff April 11, 2015:

(quote) 'If pedophiles had access to manipulated child pornography, the number of cases of child abuse might decrease. This is the opinion of professor of forensic psychiatry and psychology Jan Hendriks. He thinks that the feelings of some pedophiles might be curbed in this way. Possession of child pornography is punishable in the Netherlands. The law should be amended to make this research possible, (end of quote).

*The Deep State conspiracy theory: In the United States, is an American political conspiracy theory that posits the existence of the Deep State, a secret network of high-level financial and industrial entities of the federal government that exercise power alongside or within the elected government of the United States. The term has been around since at least the 1950s, and some draw parallels to the concept of the military-industrial complex, which posits a cabal of generals and defense contractors who enrich themselves by driving the country into endless wars (Wikipedia).*

Anti-institutional extremism:

In the Netherlands, the AIVD investigates threats to the democratic legal order. When individuals or groups deliberately spread a narrative about an 'evil elite', they create a factually incorrect worldview. In doing so, they undermine confidence in democratic institutions and processes, such as the government, police and media. We call this anti-institutional extremism.

The AIVD makes a distinction between hostility based on an extremist ideology and regular criticism of institutions.

(AIVD) General Intelligence and Security Service.

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*Scientists, researchers, journalists, human rights defenders or ordinary citizens who criticize the government are extremists, but there are doubts about that. What about freedom of research, press and expression?*

Article 10 of the European Convention on Human Rights provides for the right to freedom of expression and of the press. This right is subject to such limitations as are "established by law" and "necessary in a democratic society". The right also includes the freedom to hold opinions and to receive and impart information and ideas.

*\_ (Case law Article 10 ECHR: an interference must be necessary in a democratic society. Traditionally, the Court has inferred from this that freedom of expression also applies to information and ideas that offend, shock or disturb. This also applies to highly sensitive subjects. An interference must be necessary in a democratic society. Traditionally, the Court has inferred from this that freedom of expression also applies)*

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National governments, with the various deep state political players who have literally sold their souls to the devil to the Luciferian world of the globalist crime cabal, the heart of the American war machine, in exchange for all the wealth, decadent luxury and sexual depravity that big money and power can buy. But as with any organized crime syndicate, once you're in, it's extremely difficult to get out. Hagopain in his book exposes the demonic barbarity of the soulless beast that is the hidden satanic cult currently ruling this world

world rules. The ruling elite's pedophilic bloodlust for children: from ancient times to today by Joachim Hagopian, (American Empire Exposed). In Hagopian's opinion, many of the world's rulers are bloodthirsty pedophiles, parasitic monsters who literally and rapaciously feed on the 8 million children who disappear worldwide each year. Global child trafficking rings generate enormous profits, controlled by the most powerful individuals in the world. A 2014 report by the International Labor Organization estimated that two-thirds of the world's annual forced labor profits come from sex slavery, worth \$99 billion per year. And of that \$99 billion, the vast majority is produced by the blood, sweat, tears and flesh of helpless underage sex slaves trapped in global trafficking rings run by the same evil global elite. At the head of the planet's ruling elite are 13 families, including the Rothschilds and Rockefellers, as well as the European royal family. They control thousands of compromised, bought and blackmailed puppet politicians, bankers, judges, CEOs, military generals, entertainers, top spies and police chiefs. Many more are caught up in sex slave trafficking rings every year. "Tony Blair" and George W. Bush! "Iranian regimes are notorious for their cover-ups of pedophile sex rings. Jeffrey Epstein's Lolita Express and Sex Slave Island, a pedophile blackmail operation, included Clintons and possibly Trump!"! The Government RAG (founded in 2009 in the US - an educational alternative news source)

***Joachim Hagopian is a West Point graduate and former Army officer. After his service, Joachim earned a master's degree in clinical psychology and worked as a licensed mental health counselor with abused youth and adolescents for over a quarter century.***

***In Los Angeles, he fought against the nation's largest child protective services, within America's completely fractured and corrupt child protection system. His experience in both the military and the child protection system prepared him well as an investigator and independent journalist, exposing the ills of Big Pharma and how the Rockefeller-controlled medical and psychiatric system does more harm than good.***

***As an independent journalist, Joachim has written hundreds of articles for many news sites, such as Global Research and lewrockwell.com, for over 8 years and currently <https://jameshfetzer.org> As a published Amazon bestselling author of a five-book series entitled Pedophilia & Empire: Satan, Sodomy & the Deep State, his A-Z source book series exposes the global pedophilia plague and is available for free at: <https://pedoempire.org/contents/> The Government RAG (founded in the US in 2009 - an educational alternative news source)***

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(articles by Franklin ter Horst): •

"Skull&Bones Order" the most occult branch of Freemasonry, the club that worships Lucifer as a god.

• "Opus Dei" is a conservative Roman organization with the characteristics of a sect. • "The Jesuits" call themselves the "Society of Jesus" but in reality it is a club of Satanists. That they use the name Jesus is nothing but deception.

The Bilderberg Conference

(audio) <https://archive.org/details/BilderbergConference>

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Ruling from the Darkness: The True Power of Freemasonry, the Priory of

Sion, Illuminati, Skull and Bones Jim Marrs (author), 2006, Dutch.

Book:

Pedophilia Empire Satan Sodomy

the Deep State By Joachim

Hagopain

**Joachim Hagopian** is a West Point graduate, former Army officer. After the military, Joachim earned a master's degree in Clinical Psychology and worked as a licensed therapist in the mental health field with abused youth and adolescents for more than a quarter century. In Los Angeles he found himself battling the largest county child protective services in the nation within America's thoroughly broken and corrupt child welfare system. The experience in both the military and child welfare system prepared him well as a researcher and independent journalist, exposing the evils of Big Pharma and how the Rockefeller controlled medical and psychiatric system inflict more harm than good.

As an independent journalist for over 8 years, Joachim has written hundreds of articles for many news sites, like Global

Research, lewrockwell.com and currently <https://jameshfetzer.org>. As a published bestselling author on Amazon of a 5-book volume series entitled *Pedophilia & Empire: Satan, Sodomy & the Deep State*, his AZ sourcebook series exposes the global pedophilia scourge is available free at: <https://pedoempire.org/contents/>

The Government RAG (usa-established 2009- an educational alternative news source)

<https://archive.org/details/ritual-and-satanist-networks-child-abuse>



AN EXHORTATION

TO THE NEW POPE

**“WE THE CHILDREN OF THE CHURCH”**

*We, once the children of the Church, carry in our bodies and memories the invisible wounds of sexual violence—our own spiritual stigmata. Yet our collective voice, rising from what was once unspeakable, is an act of resurrection. It restores the humanity that was violently taken from us and by it we are able to begin a new life.*

May 8, 2025



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SURVIVORS NETWORK OF THOSE  
ABUSED BY PRIESTS  
PO Box 16376  
Chicago, IL 60616, United States

His Holiness  
Apostolic Palace  
00120 Vatican City

Thursday, May 8, 2025

We are writing to you as the world's oldest and largest organization representing survivors of rape, sexual assault, and abuse by priests, religious, nuns, lay ministers, and volunteers in the Catholic Church. For over 35 years, we have supported more than 25,000 survivors worldwide. In the lead-up to the conclave that elected you, we launched a new global survivor initiative, Conclave Watch, a database detailing the records of how the cardinals that have elected you have facilitated and concealed cases of clergy abuse.

Once, we were the children of the church.

*The sex offender always commits two crimes: first, they steal the body, and then, they steal the voice.*

Many of the cardinals that elected you covered up the crimes committed against us, and the priests and others who assaulted us hold significantly greater social value and prestige than any of us, individually or collectively. The theater and international acclaim that surrounded your election unmistakably demonstrates this. It is not natural at a time like this to want to know about the kind of sexual and spiritual affliction visited upon us as children. Such knowledge disrupts and threatens the ordinary functioning of the church. Who, when engaged in prayer and praise for your ascension, wants to know about this disavowed and obscene underside of your church? No one, that is, except those motivated by the only true reason to want to know it: justice.

While the priest and other offenders may have stolen our bodies, it is the cardinals and bishops of the church, along with three successive popes before you, who have stolen our voices. Imagine our heartbreaking disappointment and despair if we discover that this includes you.

**Your first words must be to survivors and the children of the church**

We anticipate that some may criticize us for raising this issue while the world celebrates your election. However, when is it ever the right time to discuss the alarming reality of rape and

sexual violence against children, which occurs every minute or every hour of every day in this troubled world?

Shortly before Pope Francis died, he held a World Leaders Summit on Children's Rights signed a declaration <sup>1</sup> and outlining eight principles for the protection and care of children's rights.

Following the summit, he announced his intention to issue a special apostolic exhortation directly addressed to children, aimed at educating and empowering them about their rights.

He never lived to complete this exhortation. Now that task falls upon you. The first words you speak as pope should be to survivors and the children of the church.

Yet how will you proclaim a commitment to upholding the rights of children around the world and denouncing those who do not, when under the church's laws, the vulnerable do not have those rights? Moreover, how can you do this while many of your fellow bishops are currently violating these very principles?

Pope Francis was repeatedly asked by the United Nations, by state-sponsored commissions on abuse, and by survivors like us to enact a truly universal zero tolerance law for sexual abuse and cover-up. No such church law exists. Why are tens of thousands of clerics, known by you and your fellow bishops around the world to have raped and sexually assaulted children and the vulnerable, still in ministry today? Why can any bishop in the world, including you, cover up instances of rape and transfer offenders to new assignments where they are likely to abuse again?

Without a new universal zero tolerance law, it is legal for known abusers to practice and present themselves as priests in good standing in parishes and schools, and to families. Current church laws do not protect and uphold the rights of children. They protect and uphold the immunity of bishops and clerics who abuse children, obstruct civil justice, and cover up sex crimes.

#### **What true universal zero tolerance must be under your papacy**

We write to you with a spirit of prophetic anger, frustration, love, and a call for justice. Taking on the role of a prophet—urging the leader of the Catholic Church to adhere to his own words and commitments—is an unwelcome and thankless task. However, the priests, religious, nuns, lay ministers, and volunteers who have abused us, the bishops who have covered it up, and the popes ultimately responsible for these actions have forced us into this position. We are determined to remain faithful to the mission entrusted to us by the children of the church.

St. Francis of Assisi said, “Start by doing what is necessary, then do what is possible; and suddenly you are doing the impossible.”

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<sup>1</sup> “Speech of His Holiness Pope Francis to the World Leaders Participating in the Summit on Children's Rights.” Dicastero per la Comunicazione, February 3, 2025. [vatican.va/content/francesco/speeches/2025/february/documents/20250203-summit-diritti-bambini.html](https://vatican.va/content/francesco/speeches/2025/february/documents/20250203-summit-diritti-bambini.html).

We have carefully and meticulously drafted, word-by-word and line-by-line, the first truly universal zero-tolerance law that meets the requirements and standards of both canon law and international human rights law. swiftly remove known <sup>2</sup> This law is necessary. It will make it possible to legally and offender priests from ministry worldwide and start holding bishops accountable for their actions.

By doing this, we can achieve what seems impossible: creating a church where no one who harms children and the vulnerable can serve as a priest and where no one who covers up for fellow clerics will ever again be a bishop or sit on the chair of St.

Peter.

St. Francis also famously remarked, "Your actions are the only sermon people need to hear."

Signing zero tolerance into church law and enacting it as pope will be the only exhortation the children of the world will ever need to hear from you.

### **Transition to an abuse-free church**

We are building a clear, pragmatic, and achievable process with the help of the international community to resolve this catastrophe, but it can only be achieved if you participate with us in a global, survivor-led transitional justice process to finally address the church's legacy of sexual abuse and cover-up.

The model requires full Vatican participation, including truth-telling, restitution, and reform, but must not be controlled by the church. It offers a pathway to a post-abuse church grounded in transparency, justice, and healing.

This model must adhere to established core principles of justice internationally recognized by survivors, the United Nations, and international human rights bodies and organizations, especially in the context of addressing systematic and widespread human rights violations. It should be the responsibility of survivors to lead this process on the basis of their experience as victims of these violations. For genuine reconciliation to occur, church leaders must first demonstrate, accept, and proclaim the truth of their complicity in these crimes and violations.

For this reason, the Holy See cannot control the process but must fully cooperate with an external body in good faith. Finally, the components of this model must be applied universally to the entire global church:

- A Global Truth Commission, independent and with full Vatican cooperation. It will hold regional hearings, document abuse and cover-up, and require full Vatican compliance, including opening of all archives of abuse records.
- A universal Zero Tolerance Law enacted into canon law, removing all abusers and complicit officials. •

Proactively participate in international agreements requiring church transparency and support for legal prosecutions. Concordats should include mandatory reporting obligations.

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<sup>2</sup> "SNAP Zero Tolerance Recommendations." Survivors Network of those Abused by Priests. [natesmission.org/s/SNAP-ZT-LAW.pdf](http://natesmission.org/s/SNAP-ZT-LAW.pdf)

- A Reparations Fund supported by church assets to provide just restitution to survivors. This includes psychological care, financial restitution, education, and housing. Public acts of restitution should include memorials and official church acknowledgments.
- Form a Global Survivors Council with authority to monitor implementation and compliance. This Council will require the cooperation and participation of the Holy See, bishops' conferences, and international legal bodies.

Unless you join us in taking these steps, all efforts to address the catastrophe of clergy abuse will result in the same repetition of failure, another generation of clerical predators, and the continuation of this global trauma.

### **Three popes, three betrayals: Will you be the fourth?**

After the resurrection, Jesus told Peter: “When you were young, you dressed yourself and went where you wanted; but when you are old, you will stretch out your hands, and someone else will dress you and lead you where you do not want to go.” (John 21:18)

Unlike you and Peter, many of us did not experience the freedom of youth. As children, we were not allowed to dress ourselves or go where we wished. Instead, we were led to places of total subjugation, destitution, and despair—a place where we felt the absence of God, much like what Christ experienced on the cross.

Now, you carry the weight of this burden. The abuse of children by certain priests and the subsequent cover-up of those crimes by bishops directly implicate you. This history forces you to confront the betrayal of innocence, leading you to a place you do not want to go.

As the Bishop of Rome, you are the direct successor of St. Peter, whom you believe was the first pope—chosen not by men, but by Christ himself. Yet, one of the great mysteries of faith is that Jesus did not choose Peter for his courage or honesty; he knew that Peter would betray him. Jesus was aware that Peter would deny his innocence and lie about it—not once, but three times. In other words, our first pope was a coward and a liar.

You will be the fourth successive pope since the public revelation of widespread and systematic abuse of children to Catholics and the world. Your three predecessors accepted the papal office, fully aware that they had betrayed the innocence of children in the dioceses entrusted to them. When they became pope, none declined the office out of shame or unworthiness for what had occurred—neither Karol Józef Wojtyła in Poland, nor Joseph Alois Ratzinger from Germany, nor your predecessor, Jorge Mario Bergoglio from Argentina. And none of them approached the papal chair and, like Peter, confessed his sins, wept bitterly, and vowed never to betray the innocent again. Like them, will you fail to fully recognize what you and your fellow bishops have done and what you are continuing to do?

Jesus reserved some of his strongest rebukes for Peter, saying, “Get behind me, Satan!” when Peter failed to grasp the true cost of discipleship. Yet, despite his shortcomings, Peter was still the one Christ entrusted with leading the church.

Betrayal of the innocent is not, in itself, a barrier to sitting on the Chair of St. Peter—as long as one follows Peter's example. Peter did not justify his actions. He did not apologize himself. He did not shield himself from the devastating realization of what he had done.

Will the children and the vulnerable of his church have to endure a fourth pope that will betray them and all the innocent entrusted to his care? Or will you be the first pope to end this scourge and heal the open wounds left by the Catholic Church's long history of sexual violence?

Sincerely,

The Survivors Network of Those Abused by Priests

***(SNAP, the Survivors Network, has been providing support for victims of sexual abuse in institutional settings for more than 35 years. We have more than 25,000 survivors and supporters in our network. Our website is [SNAPnetwork.org](http://SNAPnetwork.org))***



Tweede Kamer der Staten-Generaal 6 maart 2024, FvD opnieuw vragen in 2024 na commissie Hendriks 2022, over ritueel kindermisbruik in nederland

<https://archive.org/details/na-commissie-hendriks-2022-opnieuw-vragen-over-ritueel-kindermisbruik-in-nederland-2024>

# Chapter 36: Netherlands – The Pedophile Kingdom and Sodom and Gomorrah of the modern world

**Joachim Hagopian, July 13, 2020**

<https://archive.org/details/netherlands-pedophile-kingdom-and-sodom-and-gomorrah-of-the-modern-world>

The thesis by J van Buuren, in which “Demmink conspiracy construction” IFUD or Human Rights: it is clear not about which conspiracy construction it concerns that van Buuren writes about in the Joris Demmink case. Could the author mean Joachim Hagopain? Then he should have mentioned it. IFUD of Human Rights cannot judge so quickly what is true or not. According to Hendriks Committee investigation (2022), the story by Joachim Hagopain would not be the truth. (a verdict by a judge, or a notarial deed by a notary) are for IFUD or Human Rights considered to be true as long as one cannot successfully dispute its falsity.



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**Doelwit Den Haag? : complotconstructies en systeemhaat in Nederland  
2000-2014**  
Buuren, J. van

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(short summary)

This thesis is about:

Demmink conspiracy construction, sex files covered up rolodex investigation. In June 2016, the Public Prosecution Service decided not to prosecute and asked the court in The Hague to agree to the wish not to prosecute. According to the Public Prosecution Service, the two-year investigation had not yielded any suspicions of criminal offenses. A complicating factor in the investigation was that Turkey did not want to provide legal assistance. Further on, Conspiracy stories about traitors - politicians as puppets, about 'dark occults of freemasons/skulls-bones/illuminati', a 'satanic spiritual spiritually shielded dark higher hierarchical context', about the 'luciferians of the serpent order who have the state apparatus' or a shadow government consisting of 'people from the political elite and corporations. About 'dark occults of freemasons/skulls-bones/illuminati', a 'satanic spiritual shielded dark higher hierarchical context', about the 'luciferians of the serpent order who have the state apparatus at their disposal', or about a shadow government consisting of 'people from the political elite and corporations and some factions of the military-industrial complex. About secret conspiracy at the Bilderberg conferences by the top of politics and the industrialists. About a New World Order. Jesuits from the Vatican who pull the strings on the world stage, and about dark occults of freemasons/skulls-bones and illuminati. Plot about the existence of the torture chamber of Salomonson (Demmink and Prince Claus) would abuse children. The Royal family involved in delivering babies and toddlers to high-ranking people to then abuse them. That Queen Beatrix of the Netherlands ordered and paid for "the murder, torture, rape and killing of children" in the presence of important Dutch politicians and other well-known world leaders. The monarchy would be deeply involved in pedophile networks. The elite portrayed as cold-blooded entities that would be the tool of Satan. In ALL cases, the root of evil would be "lucifer" satanism, and there would be a worldwide pedophile network in which more than a million children disappear annually for abuse. Individuals who sound the alarm or whistleblowers about clashes with their employer, and forced admission to institutions. Totally mentally destroying them in order to eliminate them in this way. The State of the Netherlands would be a criminal organization and the Netherlands a sham democracy. Society -even the world- had degenerated into a large prison that wanted to enslave free citizens of the system. Individuals who publish life stories out of distrust, anger and frustration. These could be clashes with the youth care agency, the UWV, the tax authorities, the government and the farmers, Groningen or about cutbacks in general, the livelihood, the elderly care and refugees. Youth care in particular would earn a lot of money for years by placing as many children as possible under supervision and away from home for as long as possible, whereby the juvenile judges would blindly follow the opinions of youth care. The UWV assessments where the Gestapo method would be applied, where for example people with cancer were still employed. In the refugee issue some in extreme right-wing circles went a step further by stating that the government was busy replacing its own people with refugees. This whole story in the context that so-called self-proclaimed "awakened" people did see through everything around them but the rest of the population,, that the in their eyes the "sheep" did not stand up against the supposed evil.



Hate crimes



## Symbols of National Socialism

Case law: Supreme Court of the Netherlands

HR:2009 / BJ6941

[Use of symbols]

There is no symbol, not even the swastika, that is punishable in itself under one of the discrimination articles. The Supreme Court ruling cited above shows that the swastika is insulting to a group if it propagates the National Socialist ideology. The same applies to other symbols that can be related to the Nazi ideology, such as SS symbols. However, it will be clearer with one Nazi symbol than with another that the National Socialist ideology is being propagated. For symbols that originated during the Nazi era, such as the SS symbol, the National Socialist ideology is propagated almost by definition. Deliberately displaying this symbol is sufficient for propagating the Nazi ideology. After all, the SS stood for the destruction and extermination of opponents of the Nazi regime, in particular Jews, gypsies and homosexuals. However, the swastika already existed before the Nazi era as a symbol with a completely different, non-aggressive meaning. Therefore, compared to the SS sign, more is needed to speak of promoting a certain ideology.

# Declaration of Human Rights

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## REGISTER

Minister of Justice and Security  
D. Yesilgöz-Zegerius  
PO Box: 20301  
2500EH, THE HAGUE

Mierlo, September 6, 2022  
concerns: for your information

His Excellency Yesilgöz-Zegerius,

The fact that civil servants withhold critical documents on behalf of government officials through the policy rules and guidelines under the responsibility of the Minister. It is about a **letter dated 11 January 2022** that was addressed to the Minister of Justice and Security D. Yesilgöz-Zegerius with sender IFUD of Human Rights and of which it is not clear whether it ever reached your desk as Minister. This problem has now been resolved by having the letter in question served by a bailiff together with some other documents. I may assume that you have received the letter in question in the meantime.

received from colleague SAM Kaag MA, MPhil, Deputy Prime Minister of the State of the Netherlands.

On page 20 of the letter there is a link to the Annual Report of IFUD of Human Rights (pdf file) on the internet. On page 473 - for reporting and research - the photoshopped image of the previous Minister of Justice and Security Fred Grapperhaus. That image has been online since 2020 and is still online today. We see Grapperhaus as a Nazi dressed in cap and jacket, and provided with the symbols of the former SS of the Third Reich.

## Example function

Government officials have an important exemplary function (the blue book Manual for government officials) Source: This manual can be found on Rijksoverheid.nl.,mr. Marianne Hordijk Secretary of the Council of Ministers. You cannot therefore shift your responsibility 100 percent to the tech companies.

## Constitution

The Constitution designates the minister as the head of the ministry. The minister is also formally the 'administrative boss' of the State Secretary at the department, without prejudice the fact that the latter has its own portfolio (see further the commentary on Article 46 of the Constitution). It can be inferred from this that the minister is in charge of his ministry and therefore over all officials. He is authorized to give orders and instructions, as well as directives and to provide policy rules for the implementation of statutory and administrative tasks. Subsequently, the Minister in this context also has legal position powers with regard to his officials, such as appointment and dismissal. Furthermore, the management task of the minister means that he or she is responsible for the official structure of his ministry. The minister is also responsible for managing the budget of his ministry on the basis of the Accountability Act

(see art. 19). All this taken together makes him finally fully and individually responsible for his civil servants and his ministry to the States General (see further on the relationship between ministers and civil servants art. 42 Gw). Ministerial responsibility means that ministers, jointly and separately, are accountable to parliament for their policy actions. They alone are (politically) responsible for legislation and policy. The King, who is also part of the government, is not.

#### Art.44Sr, official misconduct

Criminal offences committed under one of the aggravating circumstances described in Article 44 of the Criminal Code. This includes the following aggravating circumstance: "using power, opportunity or means granted to him by his office."

#### Article 361 of the Criminal Code

1. A civil servant or any other person permanently or temporarily charged with any public service who intentionally embezzles, destroys, damages or renders unusable any matter intended to serve as evidence or conviction before the competent authority, any deeds, documents or registers which he has in his possession in the course of his office, or allows them to be removed, destroyed, damaged or rendered unusable by another, or assists that other person in doing so as an accomplice, shall be punished with a prison sentence of not more than four years and six months or a fine of the fifth category.

#### Ministerial Responsibility

The Minister of Justice and Security, who is in charge of this organisation on the basis of Article 44, paragraph 1, of the Constitution, is authorised to give instructions to all civil servants working for that organisation. Because the Minister is authorised in this way to fully determine what happens in his ministry, he is fully politically responsible for all actions within the ministry. All ministers are jointly responsible for the general government policy of the Dutch State, which is discussed in the Council of Ministers.

#### With reference

- Letter from the Ministry of the Interior and Kingdom Relations, Reference: 2022-0000123877 To the President of the House of Representatives of the States General Date: March 8, 2022, concerns: Main lines of policy for digitalization The State Secretary for the Interior and Kingdom Relations Kingdom Relations and Digitalization.
- United Nations A/76/L.30 General Assembly, 13 January 2022 Seventy-sixth session Agenda item 16 Culture of peace.

In the attachment(s) of this letter

- Letter from the Ministry of Justice and Security to the President of the House of Representatives of the States General, 3 May 2022, reference: 3811068, Answers to parliamentary questions about the elaboration of the plans regarding the addition of 'hate speech' under Article 83 of the Treaty on the Functioning of the European Union (TFEU).
- Contribution ID: 345f50f3-eb4d-4e19-859c-6ed0292e8db7, Date: 12/04/2021 ,  
Targeted consultation: European Commission's initiative to include hate speech and hate crime in the list of EU crimes provided for in Article 83(1) TFEU.
- Letter from the Ministry of Justice and Security (Fred Grapperhaus) 13 April 2021, reference: 3279371, Consultation: EC's initiative to include hate speech and hate crime in the list of EU crimes provided for in Article 83(1) TFEU.
- Copy of bailiff's writ L4200928 and copy of bailiff's writ L4201030.

IFUD of Human Rights  
the Chairman  
JP van den Wittenboer





Ministerie van Justitie en Veiligheid

> Retouradres Postbus 20301 2500 EH Den Haag

J.P. van den Wittenboer  
Postbus 324  
5660 AH GELDROP

**Directoraat-Generaal  
Rechtspleging en  
Rechtshandhaving**  
Directie Juridische en  
Operationele  
Aangelegenheden

Turfmarkt 147  
2511 DP Den Haag  
Postbus 20301  
2500 EH Den Haag  
[www.rijksoverheid.nl/jenv](http://www.rijksoverheid.nl/jenv)

**Contactpersoon**  
[burgerbrieven@minjenv.nl](mailto:burgerbrieven@minjenv.nl)

Datum 9 september 2022  
Onderwerp Uw brief plus bijlagen van 6 september jl.

T 070 370 79 11  
F 070 370 79 00

**Ons kenmerk**  
4196808

*Bij beantwoording de datum  
en ons kenmerk vermelden.  
Wilt u slechts één zaak in uw  
brief behandelen.*

Geachte heer Van Den Wittenboer,

Uw bovengenoemde brief plus bijlagen, die u mij ter kennisgeving heeft gestuurd, heb ik in goede orde ontvangen. In antwoord deel ik u mee dat ik met belangstelling heb kennisgenomen van uw correspondentie, maar geen reden zie om inhoudelijk te reageren.

Ik vertrouw erop u met het vorenstaande voldoende te hebben geïnformeerd.

Met vriendelijke groet,  
De Minister van Justitie en Veiligheid,  
namens deze,

C.A.M. Boekestein-Klöckner  
Plv. Hoofd Afdeling Benoemingen,  
Burgercorrespondentie, Ondersteuning en  
Parlementaire Zaken



RAAD VAN DE  
EUROPESE UNIE

SECRETARIAAT-GENERAAL

*Juridische Dienst*

RUE DE LA LOI, 175  
B – 1048 BRUSSEL  
Tel: (32 2) 281 61 11  
Telefax: (32 2) 281 73 81/281 73 97

SSS9/01932

Brussel, 11 februari 2009

IFUD of Human Rights  
Po.box 324  
NL- 5660AH Geldrop

Ter attentie van de heer J.P. van den Wittenboer, Voorzitter

Geachte heer,

Wij hebben uw brief van 27 januari 2009 en de bijlagen daarbij goed ontvangen.

U verwijst daarin naar artikel 7 van het Verdrag betreffende de Europese Unie, en met name het eerste lid daarvan. Die bepaling verleent evenwel geen recht van initiatief aan de Raad van de Europese Unie, die de erin neergelegde bevoegdheden slechts kan uitoefenen op voorstel van eenderde van de lidstaten, het Europees Parlement of de Commissie.

Wij sturen u dan ook uw documentatie terug, zodat u die desgewenst nog passend kunt gebruiken.

Hoogachtend,

Thérèse BLANCHET  
Hoofd van de Eenheid Coördinatie  
Juridische dienst

# Suspension clause (Article 7 of the Treaty on European Union)

Article [7](#) of the Treaty on European Union provides for the possibility of **suspending rights pertaining to membership of the European Union (EU)** (such as voting rights in the Council of the European Union) if a country seriously and persistently breaches the principles on which the EU is founded. These are the principles set out in Article [2](#) of the Treaty on European Union (respect for human dignity, freedom, democracy, equality, the rule of law and respect for fundamental rights, including [the rights of persons belonging to minorities](#)). However, this country's obligations remain binding.

Under Article 7, the Council, acting on a proposal from one third of the EU Member States, or from the European Commission or the European Parliament, may, acting by a majority of four fifths of its component members and after obtaining the consent of Parliament, determine that there is a clear risk of a serious breach of fundamental rights by a Member State and address appropriate recommendations.

Article [354](#) of the Treaty on the Functioning of the European Union (TFEU) contains provisions on voting in the major EU institutions when Article 7 of the TEU is applied to a Member State.

The country in question does not vote. It does not count towards the calculation of the third of the countries needed for the proposal or the four-fifths needed for a majority. The consent of Parliament requires a two-thirds majority.

## Debat over antisemitisme en islamofobie

<https://archive.org/details/debat-over-antisemitisme-en-islamofobie>

## **European Parliament petition**

<https://archive.org/details/european-petition-racism-and-xenophobia-2015>

[https://archive.org/details/cecilia-wikstrom\\_202505](https://archive.org/details/cecilia-wikstrom_202505)

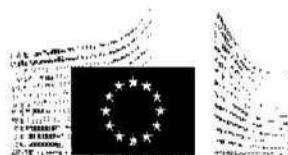
## **European Commission**

<https://archive.org/details/eu-crimes-article-81-lid-1-tfeu>

## **Europees Hof van Justitie**

<https://archive.org/details/europees-hof-van-justitie>

[https://archive.org/details/nothing-but-the-truth\\_202202](https://archive.org/details/nothing-but-the-truth_202202)



EUROPESE COMMISSIE  
Kabinet van Eerste Vicevoorzitter Frans Timmermans

Lid van het Kabinet

Brussel, 13.08.2015  
BM/kr Ares (2015) 2715348

Geachte heer Van den Wittenboer,

De eerste vicevoorzitter van de Europese Commissie, de heer Frans Timmermans, belast met betere regelgeving, interinstitutionele betrekkingen, rechtsstatelijkheid en het handvest van de grondrechten, heeft mij gevraagd u te bedanken voor uw brief van 24 juni 2015 inzake de toepassing door Nederland van de Europese regelgeving inzake racisme.

In uw brief vraagt u de Commissie om tegen Nederland een inbreukprocedure in te leiden wegens niet-nakoming van zijn verplichtingen op grond van Kaderbesluit 2008/913/JBZ betreffende de bestrijding van bepaalde vormen en uitingen van racisme en vreemdelingenhaat door middel van het strafrecht. Tevens stelt u dat de Commissie niet aan haar verplichting heeft voldaan om onpartijdig, eerlijk en binnen een redelijke termijn klachten te behandelen en haar rol als hoedster van de verdragen niet vervult bij het waarborgen van de fundamentele waarden van de Unie en het bestrijden van criminaliteit, racisme en vreemdelingenhaat in de lidstaten, zoals het gebruik van nazisymbolen. U wijst ook op een brief die u in september 2014 hebt verstuurd aan het Nederlandse parlement over deze kwestie en een petitie die u op 24 juni 2015 hebt verstuurd aan het Europees Parlement overeenkomstig artikel 227 VWEU.

U hebt deze kwesties reeds aangekaart bij de Europese Commissie in een klacht die wij hebben ontvangen op 8 januari 2015 (referentienummer CHAP(2015)00917) en in een later schrijven van 21 april 2015. De bevoegde dienst heeft u, na een zorgvuldige analyse van uw op- en aanmerkingen, een uitvoerig antwoord gegeven bij brief van 21 april 2015. In deze brief zijn de lopende acties en initiatieven van de Commissie beschreven die de correcte en effectieve omzetting en uitvoering van het kaderbesluit betreffende racisme en vreemdelingenhaat door de lidstaten moeten garanderen.

...

De heer J.P. VAN DEN WITTENBOER  
Voorzitter  
Intermediary Foundation of the Universal Declaration of Human Rights

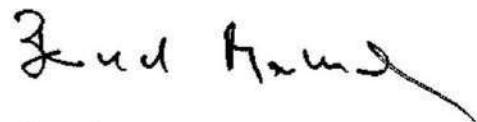
E-mail: [ifudofhumanrights@yahoo.com](mailto:ifudofhumanrights@yahoo.com)

Na deze brief, en omdat u geen nieuwe wezenlijke informatie heeft verstrekt, heeft de Commissie u bij brief van 15 juni 2015 op de hoogte gesteld van haar beslissing om het dossier betreffende uw klacht af te sluiten.

Zoals reeds werd aangegeven in de aangehaalde antwoorden, kunnen individuele personen aan de Commissie weliswaar feitelijke of juridische informatie overleggen over aan een lidstaat toe te rekenen maatregelen of praktijken die onverenigbaar met een bepaling of beginsel van het recht van de Unie worden geacht, maar heeft de Commissie discretionaire bevoegdheid om te beslissen of de instelling van een procedure tegen een lidstaat wegens niet-nakoming van zijn verplichtingen op grond van het recht van de Unie op zijn plaats is.

Sta mij niettemin toe u nogmaals te verzekeren dat de Commissie streng toezicht uitoefent op de omzetting en uitvoering van het kaderbesluit door Nederland, net zoals zij dat doet voor alle andere lidstaten. Nu de Commissie sinds 1 december 2014 de bevoegdheid heeft om onder controle van het Hof van Justitie toezicht te houden op de toepassing van kaderbesluiten, is zij begonnen bilaterale dialogen met de lidstaten te voeren, inclusief met Nederland, om de volledige en correcte omzetting en uitvoering van het kaderbesluit te verzekeren. De Commissie zal niet aarzelen om op die basis inbreukprocedures in te leiden indien nodig.

Met vriendelijke groet,



Bernd MARTENCZUK

The Chair  
Committee on Petitions

Brussel,  
JH/mb/IPOL-COM-PETI D (2016)142621

D 306790 08.04.2016

De heer Joannes Petrus van den Wittenboer  
Intermediary Foundation of the Universal  
Declaration of Human Rights  
Kastanje 28  
5731 NK Mierlo  
NEDERLAND

**Betreft:** Verzoekschrift nr 0794/2015

Geachte heer van den Wittenboer,

De Commissie verzoekschriften heeft uw verzoekschrift onderzocht en in overeenstemming met het Reglement van het Europees Parlement ontvankelijk verklaard, aangezien het onderwerp tot de werkterreinen van de Europese Unie behoort.

De Commissie verzoekschriften ziet geen redenen om het Europees Parlement voor te stellen een motie van wantrouwen tegen de Europese Commissie aan te nemen. De commissie is namelijk van oipvatting dat de Europese Commissie, na de oorspronkelijke vertraging bij de registratie, uw klacht correct heeft behandeld. Voorts is de commissie het volledig eens met de opmerkingen van de Europese Ombudsman ten aanzien van een nader onderzoek in verband met uw klacht.

Hiermee is de behandeling van uw verzoekschrift door het Europees Parlement afgerond en is het dossier gesloten.

Hoogachtend,



Cecilia Wikström  
Voorzitter van de  
Commissie verzoekschriften



Prof. Twan Tak: Established order



<https://archive.org/details/prof-twan-tak-established-order>

The editions of the European Justice Scoreboard (EJS) are non-binding, so , the Venice Commission of the Council of Europe issues annual advice on rule of law reports to EU Member States. The recommendations of the Rule of Law Commission are not legally binding.



Intermediary Foundation of  
the Universal Declaration  
of Human Rights,  
P.O. Box: 324, 5660 AH  
GELDROP - NETHERLANDS  
K.v.K. nr: 592925  
Banknr: 1341.17.271 RABOBANK

# Intermediary Foundation of the Universal Declaration of Human Rights

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## **REGISTER**

Minister of Justice and Security  
D. Yesilgöz-Zegerius authorized on behalf  
of the Dutch State

PO Box: 20301  
2500EH, THE HAGUE

Mierlo, November 7, 2022  
concerns: for your information

His Excellency Yesilgöz-Zegerius,

The cabinet

An image of a well-functioning Dutch constitutional state, with high perceived judicial independence, and that the independence of judges is highly perceived by citizens and the business community. The government endorses the importance of citizens and the business community being able to rely on the independence of judges and the judiciary. 8 European Justice Scoreboard 2021 (<https://ec.europa.eu/info/files/eu-justice-scoreboard-2021>).8

October 1, 2021  
BZDOC-870508676-26  
Ministry of Foreign Affairs  
Cabinet Appreciation Rule of Law Report 2021 of the European Commission

IFUD of Human Rights

There is an error or incorrect representation of the implementation and operation of the Dutch rule of law by European Justice Scoreboard 2021, the cabinet adopts this incorrect representation of the facts.

Legal position of the citizen vis-à-vis the State

People are often unaware of the vulnerability of their position when they are involved in a legal conflict against the State with the various chain partners to obtain their rights. The establishment of the established order of the government who, together with their chain partners, want to protect this system and consciously maintain it. The legal seekers object but quickly become entangled between complaints institutes that

not functioning, reports and forms, a legal battle of attrition, the heavy burden of proof, the exhausting one-sided legal practice to legal tug-of-war up to the Supreme Court. In this way these poor victims are mangled and stripped in an inhumane manner, whereby housemates often become frustrated, these inexperienced fellow citizens quickly lose sight of the steps they have to take and of their legal position.

A victim of this practice has virtually no chance of obtaining recognition and subsequently any rights. This practice leads to sickening exhaustion and traumatization.

### Ruling class

The law - including criminal law - should primarily be there to protect the powerless. In the Netherlands, this is exactly the other way around. The law protects and benefits the political and economic ruling class within the State. The law is a monopolistic means of power of the establishment with its own State of rulers within that State.

### Slapp's

As soon as whistleblowers point a finger, the system closes down hermetic Every attack on the State and the system is countered by the Public Prosecution Service and the judges immediately blocked. Often the government detains political opponents and Human rights defenders sidelined by medicalizing conflict with government.  
Brussels, 27.4.2022 COM(2022) 177 final 2022/0117 (COD) Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of persons involved in public participation against manifestly unfounded or unlawful legal proceedings ('strategic public participation actions') {SWD(2022) NL 117 final} NL

### Establishment of power

*"maintaining the status quo"*

The apparatus of the establishment of power holders within the government in The Hague together with the tentacles of big business that wield incredible power in government, media, academia, the military and the banks, are above electoral interests. This group will never allow a situation to arise where their power loses advantages to that of the democratic.

### Denial

Letter of 3 September 2002 from the Minister of the Interior and Kingdom Relations, also on behalf of the Prime Minister, who is also Minister of General Affairs, and the Minister of Justice to Prof. Mr. AQC Tak: *"it is not clear what is meant by the "established order"*, (source: National Ombudsman Report Date: 24 August 2004 Report number: 2004/328).

In theory and practice, Tak concluded that the system of legal protection of citizens against the government has taken on alarming proportions. The Council of State in particular has to bear the brunt of this (book "The Maastricht School" 2002).

Establishment is generally understood as: "the established order", or the group of people who hold all the institutional, political, cultural, legal and economic levers in their hands, and who obviously also wish to perpetuate this power. It is therefore closely linked to elites and circles within which its members frequent each other (Masonic lodges, exclusive clubs, all kinds of lobbies),  
source: wikipedia.org.

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The principle of "equality of arms" assumes that both the defense and the plaintiff fight with the same file and with the same resources.

Referring to the letters previously sent to you:

-January 11, 2022

-September 6, 2022

IFUD of Human Rights

The Chairman

JP van den Wittenboer

A handwritten signature in black ink, appearing to read "JP van den Wittenboer", enclosed within a decorative oval border.

# Universal Declaration of Human Rights

## REGISTER

Ministry of Health, Welfare and Sport

To His Excellency EJ Kuipers Minister  
of Public Health, Welfare and Sport,  
PO Box 20350 2500 EJ The Hague

Subject: the health care system

Mierlo, June 28, 2023

His Excellency,

Nursing home staff in the Netherlands frequently forget medication or give the wrong dose when the family says something about it, they are often dismissed as troublemakers by the nursing home management or referred to a complaints procedure that subsequently turns out not to be objective. The cause is often based on communication problems, which are also largely due to communication skills of the care staff. There is vulnerability of teams, if an employee fails, this immediately has major consequences for the other employees. The gaps are often filled by inexperienced staff. As a result, the staff has to deal with frustration in the work. Communication problems can also occur due to a lack of coordination between the manager and the employees. Care should not always be the last item in helping the elderly and the sick. Complaining to the IGZ does not seem to work either. It is slow and when the inspection visits nursing homes, it is "the butcher who inspects his own meat". This shortcoming must be addressed through training and experienced staff and a supported cultural change within nursing homes in combination with other policies by politicians in The Hague.

The basis for the government task in the field of public health lies in international treaties and in particular in Article 22 paragraph 1 of the Constitution: 'The government shall take measures to promote public health'. In the Netherlands, health care is not provided by the government (with the exception of public health care) but by private health care providers.

The government is 'system responsible', which means it is responsible for the quality, affordability and accessibility of care. The quality of the care actually provided is primarily the responsibility of the care provider itself; the government ensures that it meets certain standards. The IGZ is charged with this supervision. The IGZ is part of the Ministry of Health, Welfare and Sport (VWS).

Article 25 of the Universal Declaration of Human Rights (1948) covers a wide range of rights, including the right to adequate food, water, sanitation, clothing, housing and medical care, as well as social protection that covers situations beyond a person's control, such as disability, widowhood, unemployment and old age. Mothers and children receive special care. Article 25 of the declaration sets out a number of conditions that

conditions the Dutch State has promised to adhere to. The current rulers will do everything in their power to maintain the status quo, since that serves their own interests the most. The powerful union power monopolies in particular cause great harm to the public. They are therefore suspect in advance, because they have been branded as the sheepskin-clad enforcers of a condemned social system. The issue of and about health care was in the spotlight in 1994 "Simons plan", and it still is in 2023.

The national and local health issues, in addition to the general and partial issues, continue to demand a solution. Unfortunately, the latter is not always adhered to. An impressive structure has been created, the layout of which is extremely opaque, "the patchwork of health care". This opacity has not diminished over the years, despite the many attempts to clarify it. The sharply increased costs of medical care and health care, together with the doubts about their actual return, are also problems of the first order. The solution to achieve better coordination of the mutual functions is sometimes a question of better management, sometimes of a different policy and administration and sometimes of better programming and setting clear priorities. Sometimes these problems lie in the political sphere or in financial arrangements. Reality is again the counterpart contradiction here and shows us that solutions are not implemented or not implemented in time or are sometimes not addressed. In the line of reasoning of the people's vision, this means that the choice of the instrument to be used for the promotion of health care is "incorrect".

ah-tk-20222023-2575 ISSN 0921 - 7398 The Hague 2023 House of Representatives of the States General Session year 2022-2023 Questions asked by the members of the House, with the answers given by the government 2575 Appendix to the Proceedings Answer from Minister Kuipers (Health, Welfare and Sport) (received 12 May 2023).

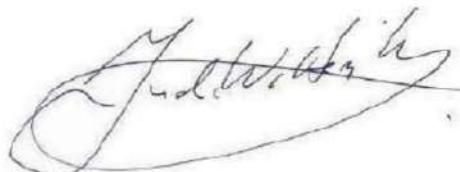
The medical system from A to Z is controlled by the financial interests of the pharmaceutical industry. Numerous patient organizations, scientific journals, medical journals, research and opinion leaders are sponsored by the pharmaceutical industry to influence prescribing behavior. The appearance of bona fides by the Dutch government with the various reports on health care act as a cover

Research "On our health" the need for stronger public health care, by the Council for Public Health & Society, Publication 2023-03, ISBN: 978-90-5732-176-4.

for predatory and profit-driven criminal practices. Health care based on purely cost-benefit analysis in a modern society where only consumption and profit count, the risk of economic euthanasia is enormous. The strong aging of the population and an economic recession in combination with crisis could further strengthen this tendency.

(\*) Copy of letter HansJ. Simons, September 22, 1993, reference: BB-U-933723

IFUD of Human Rights  
Chairman JP  
van den Wittenboer



## Pharmaceutical industry

The pharmaceutical industry the far-reaching loyalty of medical professionals, government agencies to the pharmaceutical companies and the related conglomerates of rule breakers summarized in "pharmaceutical complex". A power bloc of actors in the field that facilitates or tolerates violations of the rules. This involves the focus on illegal profit (and) systematically committing crimes with serious consequences for society, and being able to shield these crimes in a relatively effective way through collusion, clientelism and canards in the media. Through the refined advertising systems that are called information systems in the government, the citizenry will not discover when the government is cheating and lying. In this way, the mutual interdependence is camouflaged. The aggressive marketing method of the pharmaceutical industry is socially unacceptable and unethical. The interests are great, and billions of euros are involved. Take an example like the European Union. The European Union gives

2.4 trillion euros each year - from taxes of the citizens of the member states - to promote themselves. The money is needed for TV advertising, leaflets, newspapers, reports etc. That is more than Coca Cola spends each year on advertising worldwide. The people have become a powerless plaything of the pharmaceutical industry. Many people blindly trust doctors who are part of a system that is designed to make people sick, until death follows. Greater suspicion of doctors is therefore very necessary. Medical errors do not only include the injuries that doctors cause with the intention of curing the patient, but also the other types of injuries that are the result of attempts by the doctor to protect himself against possible prosecution for bad practice. There appear to be victims whose files were tampered with. It is almost certain that more people in our country die an unnatural death than is officially shown by the statistics. Medical blunders therefore remain unnoticed. And crimes too

never come to light. 1.2 million Britons end up in hospital every year as a result of an incorrect medical treatment. In the United States – where 40,000 people are shot dead each year – the chance of being "killed" by a doctor is nevertheless three times greater than by a gun. In the Netherlands, 30,000 patients suffer damage during medical treatment due to a medical error or complication. Research in 1997 by Lens and van der Wal showed that one in twenty doctors in North Holland hospitals performed poorly. This would also apply to the rest of our country. More than 40% of the victims of a medical error are still involved in a personal injury case after three years. Poor practice does not only include medical errors. People die almost every day as a result of drug poisoning. Officially, all these cases are covered up as "natural deaths". The entire medical business is hidden in the web

of the pharmaceutical industry weave. Dutch public health is completely dominated by the pharmaceutical industry. The Dutch national government has fully cooperated in the pharmaceutical domination of public health care. Both the national government and the health insurers serve the interests of the pharmaceutical companies and emphatically not those of the civilian population. The pharmaceutical industry earns billions of euros on the backs of the citizens of the Netherlands. The pharmaceutical industry invests part of its excessive profits in rewarding (bribing) everyone and everything in the Netherlands who ensures that their pills are purchased in the Netherlands. The government, Ministry of Health, Welfare and Sport (VWS) have an interest in maintaining public health dominated by pharmaceuticals. The health insurers in the Netherlands own shares in pharmaceutical companies whose products are reimbursed by these health insurers. As the pharmaceutical companies make more profit, the value of the shares increases. Pension funds in the Netherlands have also invested a large part of their assets in shares of pharmaceutical companies. All this means that it is beneficial for the finances of the Netherlands that the pharmaceutical industry is doing well. The pharmaceutical industry wants to make as much profit as possible, and the more people need pills

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The pharmaceutical industry wants to make as much profit as possible, and the more people need pills, and the longer, the better this is for the turnover of the pharmaceutical industry. The influence of the pharmaceutical industry on the prescribing behavior of doctors, who are massively bribed with money and candy trips and presents, is great. Each and every one of them is on the leash of the pharmaceutical industry. Doctors are writing more and more prescriptions (143 million per year) in Netherlands. More and more patients are becoming addicted and cannot do without their daily dose of pills, antidepressants and tranquilizers are very much on the rise. The addictive use is evident from the growing number of repeat prescriptions and the increasing prescription duration. Due to the diagnostic criteria based on the DSM (Diagnostic and Statistical Manual of Mental Disorders) thousands of children, teenagers are admitted with the wrong diagnosis for psychiatric drugs are the basis for this. The educators of institutions in youth care and child and adolescent psychiatry can not handle the behavior and / or the disorder well. Everything must therefore - of course - get a medical label for more turnover of the pharmaceutical industry. More and more children are diagnosed with ADHD, very profitable for the psychiatric industry. They enslave children, to justify this oppression they keep inventing new mental disorders. The organization that represents the interests of everyone who is confronted with ADHD is sponsored for concrete projects by the pharmaceutical companies that distribute Ritalin and Concerta, the two best-known medicines against ADHD. With which the sponsor can enrich himself by destroying nervous systems with

hard drugs. Not only the youth, there appear to be many complaints in nursing homes where the elderly are abused. Examples include: name calling, insulting, threatening, unjustified isolation, denial of care, withholding of mental health care, hitting, pinching, kicking, grabbing roughly or sometimes even sexual abuse. The directors of nursing homes themselves have a generous income plus the extra bonuses from the pharmaceutical industry. Some walk around with three double hats on their heads to promote their own interests and those of the pharmaceutical industry. The nursing home residents are getting tired of

psychopharmaceuticals and sleeping pills. *[by administering medication, the consciousness of the patient is reduced]*. The residents must then be restrained to prevent falls. Restraining is also part of the cutbacks in health care because there is less time due to a shortage of staff. The patient will eat less because of the medication and it also becomes more difficult to take in fluids. Forcing the patient to eat and drink afterwards involves many risks. There is then a great chance of aspiration pneumonia. Tube feeding or infusion treatment is not used. The government sees such practices as -normal- medical practice and therefore not as economic and social euthanasia. The medical system of A

to Z is controlled by the financial interests of the pharmaceutical industry. Numerous patient organizations, scientific journals, medical journals, studies and opinion leaders are sponsored by the pharmaceutical industry to influence prescribing behavior. Patient organizations are sometimes paid up to 60% by the pharmaceutical industry. Complaints offices, patient offices and interest groups do not function because they are sponsored by the pharmaceutical industry, and therefore do not serve the interests of the citizen but those of the multinational. Unnecessary medical consumption and medical misconsumption can continue and the costs of health care can continue to grow strongly. In 1998, the sector - under pressure from the government - set up a foundation. This foundation had to draw up rules for the marketing of medicines. Two years later, the *"Guideline of Conduct for Showing Favor"* followed, which, among other things, limited the value of gifts to 50 euros. (In the meantime, the pharmaceutical industry has come up with numerous tricks to circumvent the rules). They ensure that healthy people feel like patients and use more medication. On behalf of the Dutch Ministry of Social Affairs and Employment, the UWV takes care of sick people to whom the Disability Act has been declared applicable. More and more reintegration companies are part of or owned by a temporary employment agency. The combination of a reintegration company and a temporary employment agency within one concern or holding company, among other things, makes it possible to earn money in two ways via these constructions. There is often no financial accountability for the expenditure of public funds and there are no adequate figures available on the net results of the reintegration processes. The many billions that the government spends on reintegration companies are often not spent properly and disappear from view. Reintegration companies barely function, but they do pocket the money. They often offer unskilled and inhumane treatment, intimidate clients, threaten to cut benefits, offer unnecessary courses and training that are also not connect with the client's education. Such a reintegration company often resorts to intimidation by threatening a negative report from the benefits agency. In the event of a negative report, the benefit can be reduced or even stopped. It is also distressing that many elderly people (55-plus) are placed in a reintegration program, while the chance is very small that

employers want them. People who do useful volunteer work or informal care are forced to stop under penalty of withholding of benefits. In this way, people on low incomes and those including disabled people to apply for jobs, driven unemployed people on the fringes of society. The self-image of these people is affected in the media and by the treatment of the benefits agency, implementation agency and the public systematically damaged. This has nothing to do with helping people to work in a good and respectful way. This is pure profit-seeking. Disabled people and people with benefits are profiteers, so they must be put to work. The government always sells this, but then in soothing words in the various brochures. This is the signal to the country that the weakest in society are the big profiteers, for whom the rest must pay for the *crisis*.

*"Everyone can still do something! The client is expected to seize those opportunities! Society takes care of people. For example with*

*a benefit. In order to pay all these benefits, a lot of money is needed. That money is collected by all of us. When the client shows a lack of sense of responsibility by not fulfilling or not sufficiently fulfilling the obligations, the client wrongly takes something from the common pot. Nobody should want to cooperate with that".* As a result, this group of people and their families are, as it were, provided with a "Star of David" by the Dutch government and are actually publicly nailed to the pillory. The real profiteering, however, must be sought in other circles in the established order of government together with multinationals. In this way, these poor victims are mangled and stripped in an inhumane manner, whereby housemates often become frustrated. In a jungle of experts and

inexperienced citizens quickly lose sight of the steps they need to take and their legal position. A victim of this practice has virtually no chance of obtaining recognition and subsequently any rights. get. This practice leads to a sickening exhaustion and to traumatization. People who become sicker and more dependent, with their supervisors live under a regime in which medical treatment is also right to maintain to control conflicts, and the vested interests in promoting the turnover of pharmaceutical products. The benefit recipient becomes sicker, slides down. The offer therefore has -of course- mainly only one answer to this: translating the complaints into a therapy that is mainly pharmaceutically oriented. *People are often not aware of the vulnerability of their position.* *Others*

*object and get entangled between complaints institutes that do not function, reports and forms, increasingly strict obligations, a legal battle of exhaustion, the heavy burden of proof, the grueling one-sided legal practice to legal tug-of-war up to the Supreme Court. The law - including criminal law - should primarily exist to protect the powerless. In the Netherlands this is exactly the other way around. The law protects and benefits the political and economic ruling class. The law is a monopolies tool of power of the ruling class with its own state of rulers in the state. As soon as whistleblowers point a finger, the system closes hermetically. Every attack on the state and the system is rejected by the*

This practice leads to a sickening exhaustion and to traumatization. People who become sicker and more dependent, with their supervisors live under a regime in which medical treatment is also right to maintain to control conflicts, and the vested interests in promoting the turnover of pharmaceutical products. The benefit recipient becomes sicker, slides down. The offer therefore has -of course- mainly only one answer to this: translating the complaints into a therapy that is mainly pharmaceutically oriented. *People are often unaware of the vulnerability of their position. Others object and become entangled between complaints institutes that do not function, reports and forms, increasingly strict obligations, a legal battle of exhaustion, the heavy burden of proof, the exhausting one-sided legal practice and legal tug-of-war up to the Supreme Court. The law - including criminal law - should primarily exist to protect the powerless.* In the Netherlands this is exactly the other way around. The law protects and benefits the political and economic ruling class. The law is a monopolies tool of power of the ruling class with its own state of rulers within the state.

As soon as whistleblowers point a finger at it, the system closes hermetically. Every attack on the state and the system is immediately blocked by the Public Prosecution Service and the judges. detriment of social emancipation and the development opportunities of the weak or powerless. *[The government sidelines political opponents and human rights defenders by medicalizing a conflict with that same government or the established order. By using criminally trained doctors who have no problem with their medical responsibility by means of fraudulent conclusions stated in psychiatric reports]. The government abhors and deliberately banishes scientists who doubt the orthodox positions. Very often whistleblowers who point out shortcomings in the current theories or interpretation of the established interests are labeled as eccentrics. So that their ideas can then be ignored without any problem. They are also systematically prevented from attending conferences, so that their*

ideas cannot find an audience. These practices are deliberate obstacles to prevent free scientific thought, they are extremely unscientific and criminal. *[the case of Defense whistleblower Spijkers was a clear case of political abuse of psychiatry according to SS-model]. The appearance of bona fides by the Dutch government that they create with reports and speeches about human rights, health care act as a cover for predatory and profit-driven criminal practices. Medicine based on purely cost-benefit analysis in a neo-Darwinian society where only consumption and profit count, the risk of economic euthanasia is enormous. The strong aging of the population and an economic recession could further strengthen this trend.*

## Youth care

1. Very many citizens in this society are being duped because employees of agencies such as the judiciary, Youth Care, the Child Protection Council, the Child Abuse Advice and Reporting Center, employees of housing cooperatives, for example, or other officials or authorities with whom you as a citizen may come into conflict, do not wish to respond in any meaningful way to letters or statements of defense from citizens who wish to defend themselves against bad measures [such as the wrongful removal of children from home].
2. The citizen has no right to defend himself against unjustified slander and measures by such authorities, that we no longer live in a constitutional state here in the Netherlands.
3. These rulers can therefore slander, commit perjury, ignore evidence, ignore counterarguments, ignore defenses, threaten and intimidate etc. with impunity. They cannot be held accountable in any way and can shamelessly and with impunity continue these crimes. Citizens are also massively fobbed off [if they defend themselves against absurd accusations in reports from those in power]. The facts are deliberately distorted and facts and evidence are ignored.
4. Hundreds of thousands of citizens fall victim to it every year in thousands of different ways and hundreds of citizens commit suicide every year because they have been duped by these unreasonable rulers to such an extent that they have nowhere to go and have gone completely bankrupt.

5. That all these organizations have almost unlimited power and can enforce all their insane and absurd plans in court through intimidation, forgery, lies, deceit, fraud, perjury, slander, threats, manipulation, etc., and that the citizen is completely powerless against this overwhelming force of unreasonable state violence.

6. In practice, the court always does what these kinds of organizations propose and want, and even if you, as an affected citizen, come with piles of witness statements and hundreds of rock-solid arguments that prove the opposite of the absurd nonsense that these kinds of organizations write about you in their insane reports based on nothing but vague suspicions, slander, gossip and backbiting and all kinds of misinterpretations about you, the judiciary, just as corrupt and criminal as these kinds of organizations, hardly reads this and does not respond to it in detail. They can commit any crime they want with impunity, such as the aforementioned intimidation, forgery, lies, deceit, fraud, perjury, slander, threats, manipulation, etc. Without ever being called to account for it.

7. If you, as a citizen, file complaints about their crimes, you can go to a 'complaints committee', which cannot do anything against these criminals so that they can quietly continue their malpractices of interfering unlimitedly with the private lives of citizens, wrongly removing children from their homes and damaging them for their lives, and making life difficult for innocent citizens.

8. This does not only apply to the Youth Protection Organizations, but to the entire elite of those in power, including the judiciary, the police, and other government institutions, so that hundreds of thousands of citizens are seriously affected and hundreds of people commit suicide every year because they have lost everything due to the criminal practices of this elite. They will never be proven right by these kinds of organizations. They will always find legal tricks to fob these citizens off, and in the end they will go completely bankrupt, lose everything and are often driven to suicide out of desperation.

9. In that sense, we absolutely do not live in a constitutional state.

In summary:

DUTCH GOVERNMENT:

-Dutch government serves the interests of the pharmaceutical industry.

-Dutch government encourages conflicts of interest.

-Dutch government allows inhumane health checks to be carried out.

-Dutch government pillories sick people or people on benefits.

-Dutch government withholds essential information.

-citizens cannot get their rights against the Dutch government.

-Dutch government leaves whistleblowers out in the cold.

CITIZENS WILL BE EXPERIENCED WITH:

- prepared in advance by the government in brochures and reports.
- intimidation.
- blackmail.
- completely or partially stop or reduce benefits.
- one-sided suggestive media messages.
- sophisticated letters and delaying actions.
- denial.
- deliberate manipulation of medical examinations and reports.
- trivializing remarks.
- official word googling.
- complicated procedures.
- digging through patient files and private information.
- bribed complaints offices.
- debilitating one-sided legal process.
- silence.
- lose most social contacts.
- divorces, evictions, family killings or suicides.

WHISTLEBLOWERS HAVE TO DEAL WITH:

- abuse of power by the government.
- conflict of interest.
- intimidation.
- innuendos.
- fraudulent file management.
- to label as querulant and pathetic.
- difficult life.
- to put in a bad light.
- suggesting psychological problems.

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- to label as querulant and pathetic.
- difficult life.
- to put in a bad light.
- suggesting psychological problems.
- no access to justice against the government.

-lose their jobs.

-covert manipulations.

-ban and isolate.

-suspicion and demonization.

-eliminate.

## Austerity

Financial deficits with cutbacks, rationalization and rationing are disproportionately passed on to the weak. In the climate of stricter and more inflexible rules in our society, the ordinary citizen is in danger of suffocating. Many will feel that their well-being is being neglected. Some use more medication as a result and are ultimately in danger of seeing suicide or euthanasia as the only solution for their growing suffering. The consequences of material, emotional and psychological devastation, whether or not linked to an increasing number of euthanasia requests. The number of deaths on top of that, which are actually veiled suicides, is unknown. According to forensic physician Dr. S. Eikelenboom, 17,000-20,000 Dutch people die each year due to medical errors and medication use. Doctors often conceal these types of serious errors from victims and their relatives and do not record them in the medical file. Unnatural death insufficiently investigated. Euthanasia should not become the norm to solve the problems in the health care system. The cost-saving measures in elderly care and nursing homes in the Netherlands - combined with the fact that social life is becoming more expensive - are taking the Netherlands towards a situation where the elderly, sick and weak are lining up to be killed because they feel that they are a burden to those around them.

## Broad social support for euthanasia

Support for self-determination over one's own life and death is greater than ever. 60% of Dutch people believe that everyone should have this right. This is evident from the fourth evaluation study of the euthanasia law, which was presented in 2023. The evaluation was carried out by Erasmus MC, Amsterdam UMC, UMC Utrecht and Erasmus University Rotterdam, with funding from ZonMw.

Source: ZonMw, May 30, 2023.

## Dying with dignity

Another positive side of euthanasia is that it gives elderly people the opportunity to die with dignity. When someone with a dying wish sees no other option than suicide, this can result in an undignified or even gruesome death. On the other hand, euthanasia is a much quieter and 'cleaner' way of dying, which can also give someone a better opportunity to say goodbye. In this way, it is also a more bearable alternative for the surviving relatives; they do not have to discover the death in a possibly unexpected or traumatic way, but in many cases they know about it and can say goodbye in peace.

Source: panacea.nl

## D66

A political party that was clearly more involved with those who wanted to end their lives than those for whom life was still "worth living" is D66, which holds self-determination in high regard. However, according to the law, no one has the right to euthanasia. In the ECHR, the right to life is laid down in Article 2, paragraph 1: "The right to life shall be protected by law. No one shall be intentionally deprived of his or her life, except in execution of a judicial sentence for a crime for which the law provides for the death penalty". Ending someone else's life is punishable. Even if the patient asks the doctor to do so. Sometimes people no longer want to live. For example, because they are seriously ill, in pain or have difficulty breathing. Sometimes a doctor may provide euthanasia or assisted suicide. For example, if someone is no longer getting better. Or if nothing can be done about the suffering. The doctor is not punishable if he or she complies with the due care requirements of the euthanasia law. The physician must be convinced that the patient's request for euthanasia is voluntary. And that the patient has thought about it carefully (well-considered). The request must therefore really come from the patient himself. No one may force or pressure the patient. Not family, friends, society and the government.

The government should not facilitate the "dying wish" euthanasia for the benefit of the minority that invokes their right to self-determination. The government has the duty to weigh up the consequences for society as a whole. In doing so, the government should prevent a euthanasia climate. Social dimension The influences from the environment that affect every person also include the economic factors that are increasingly important in society. When everything - or increasingly - is valued on economic interest, on money, on return, on economic productivity. If you no longer meet that, then you suddenly count for much less or no longer and you have much less to say. This applies not only to the elderly, but also to people who, for other reasons, can no longer or no longer participate as well in the economic process: children, the disabled, the sick. Where it now specifically concerns the elderly, often the sick, the quality of society plays an extra large role, certainly where people are in need of help, where people need care. A situation that many people experience at the end of their lives. And for health care, care, support, guidance etc. you need your environment, society. It is therefore an established fact that the quality of society, the quality of care, the quality of your environment has an influence, directly or indirectly, on the need for euthanasia at the end of life. When euthanasia is prompted by a lack of attention and care. As a result of the deforestation in care in the last decade of such a serious nature that it is precisely because of this that a climate has arisen in our society in which some feel superfluous and a burden to others. When euthanasia has been requested because there is nothing else, because the hospital sends the patient home with the message that nothing more can be done and then there is no home care and no bed in a nursing home in the short term. That there are more and more euthanasia cases in which euthanasia is requested because the patient feels that he is a burden to those around him.

Source: political party SP

## Disinformation on social media

Social media are playing an increasingly important role in many ways in creating a euthanasia climate. Unfounded information to romanticizing euthanasia in order to make euthanasia "salonfähig" accessible and generally socially acceptable together with the Dutch State.

## To die

It is important to provide good medical and nursing care to the elderly.

Elderly people who consciously refrain from eating and drinking to hasten the end of life are dying. Consciously refraining from eating and drinking to hasten the end of life is a choice that everyone can and may make for themselves, including elderly people. Consciously refraining from eating and drinking can be compared to refusing treatment that results in death. If elderly people stop eating and hardly or no longer drink, increasing weakness and bedriddenness soon occur. This is not considered suicide, but rather an exercise of the elderly's right to refuse care. However, the government has the task - as with euthanasia - to prevent abuse of that right. The government must ensure that elderly people do not choose death under unacceptable pressure from others, impulsively or neglectfully due to government cutbacks in healthcare.

## Staff shortage in nursing homes due to government cutbacks

*“Healthcare is struggling with major staff shortages in both elderly care and home care”*

Due to major staff shortages, the safety of residents in nursing homes can no longer always be guaranteed. This is evident from a survey among healthcare personnel, by RTL Nieuws in collaboration with the FNV trade union. Falls, infections and neglect.

Source: Deborah de Nies, RTL News, June 15, 2023.

Because nurses and caregivers in nursing homes do not have enough resources, they drug residents with Haldol and tie them up unnecessarily. In addition, there is a risk of aspiration pneumonia. When food and liquids enter the airways (and ultimately the lungs), pneumonia due to choking can occur.

Polypharmacy can also cause problems for the elderly. Medicines too late, incorrect dosage, wrong medicines due to work pressure due to cutbacks. This also causes the elderly to go off the map. Then there is clearly no conscious voluntary abstention from food and drink among the elderly to accelerate the end of life.

## Healthcare: a disease-creating machine

*Ivan Wolffers: What was always considered normal is increasingly being called a medical problem* and are more people being called sick than is actually the case?

Are too many people receiving treatments they don't need? Are people too often undergoing more intensive treatment than strictly necessary? And are we perhaps paying far too much for our care as a result? The idea behind this is that a system such as healthcare functions by the grace of labelling the complaints with which people report to the care. In modern healthcare, the doctor has a monopoly on this, as well as on the choice of medicines and the risks that the user runs with them. And often also to some extent on what has to be paid for them. Can every restless child be labelled ADHD, so that taking Ritalin seems self-evident?

Ivan Illich described healthcare as a disease-creating machine. Medical Nemesis (1976) was the title of his groundbreaking book. Medicalization is also called that. What was always considered normal is increasingly called a medical problem.

Ivan Wolffers Emeritus Professor of Health Care

bnnvara.nl/joop 16-07-2015

# Medicalisering Jeugdzorg

## De pillenmaffia

### SLIK! De Wurggreep van de Farmaceutische Industrie

In deze tijden van bioterror werpt de farmaceutische industrie zich op als redder in de nood. Tegelijkertijd stelt de grootste industrie op aarde zo haar miljardenbelangen veilig. De grote verliezers zijn de patiënten en de onafhankelijke medische wetenschappen.

René Zwaap

1 december 2001 – verschenen in nr. 48

Bron: De Groene Amsterdammer

## Stijgende ADHD-medicatie onder de loep

13-06-2012

Bron: bnnvara.nl

## Sterke groei pilgebruik bij kinderen

(Leerkracht ziet symptomen van ADHD het eerst)

Wilfred Simons

HD

5-11-2014



Erik de Vlieger about Demmink



<https://archive.org/details/ex-businessman-erik-de-vlieger-speaks-out-of-school-about-demmink>

ECHR



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

**Exchange of views with the Lanzarote Committee**

**“Relevant case law of the ECHR on the protection of children against  
sexual violence”**

**Speech by Robert Spano**

*October 4, 2021*

Dear Chair, dear Committee Members

Distinguished guests,

It is a great pleasure for me to be here this afternoon for an exchange of views with you, members of the Lanzarote Committee.

From my point of view, exchanges of this type with Council of Europe standard-setting and monitoring bodies are absolutely fundamental. As President, I have attempted to maintain their momentum as far as possible during my mandate. Of course, the COVID-19 pandemic has not helped in promoting face-to-face discussions. That is why I am extremely pleased to take part today.

It is my strongly held belief that the Court must not be an ivory tower: it must remain constantly attentive to what is being done within the Council of Europe. Your Committee's work enriches our jurisprudence. I hope that our case law may also inspire your work.

It is a sad reality that complaints relating to the sexual exploitation and sexual abuse of children are not new. They have been lodged and dealt with by this Court since its early beginnings, where the Court found that children and other vulnerable individuals are entitled to effective protection by the State.

Over the years the Court has dealt with examples of sexual abuse in various settings such as within the family<sup>1</sup> ; in care homes<sup>2</sup> ; at school<sup>3</sup> ; or in churches<sup>4</sup> . It has also dealt with protecting children from being targeted by paedophiles on the internet<sup>5</sup> .

Most cases are examined under Articles 3 and 8 of the Convention. Both these Articles entail an obligation on the State to safeguard the physical and psychological integrity of a person.

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<sup>1</sup> *DP and JC v. the United Kingdom*, no. 38719/97, 10 October 2002  
*X and Y v. the Netherlands*, 26 March 1985, Series A no. 91

<sup>3</sup> *O'Keeffe v. Ireland* [GC], no. 35810/09, ECHR 2014 (extracts)

<sup>4</sup> See the pending case of *JC and Others v. Belgium* (no. 11625/17).

<sup>5</sup> *KU v. Finland*, no. 2872/02, ECHR 2008

In the context of Article 3, the Court has developed certain substantive and procedural positive obligations: Firstly, an obligation to put in place a legislative and regulatory framework of protection; secondly, in certain well-defined circumstances, an obligation to take operational measures to protect specific individuals against a risk of treatment contrary to that provision; and thirdly, an

obligation to carry out an effective investigation into arguable claims of infringement of such treatment.

6

It is worth remembering that the Court has held that an effective investigation should in principle be capable of leading to the establishment of the facts of the case and to the identification and, if appropriate, punishment of those responsible. This is not an obligation of result, but one of means.

The Court has stressed that the various procedural obligations under Article 3 of the European Convention on Human Rights should be interpreted in light of international law standards; more recently it has emphasized that these obligations should be understood in light of the Lanzarote Convention.

One point it is worth mentioning at the outset is that the Lanzarote Convention was drafted on the basis of the standards already established by the Court's case-law on violence against children, in particular as regards the procedural obligation to conduct an effective investigation I just mentioned.

For the purposes of my presentation today I would like to mention three judgments of the Court from 2021 where the Court has directly relied upon the Lanzarote Convention and/or specific declarations of your Committee to support its finding of a violation of the European Convention on Human Rights.

The first case is *N.C. v. Turkey* from February<sup>7</sup>. It concerns the failure to protect the personal integrity of a vulnerable child in the course of excessively long criminal proceedings relating to sexual abuse. The facts of the case, like the facts of many of these cases, are disturbing. The applicant was forced to work as a prostitute by two women while she was only twelve years old. The following year she filed a complaint against them, and against the men with whom she had had sexual relations. Regarding her complaint as to the failure to provide her with help during the proceedings, the Court relied on several international instruments including the Lanzarote Convention.

These provided guidance regarding the assistance that should be provided to child victims of sexual abuse and exploitation. In this case, for eighteen months after her complaint had been lodged the applicant was at no point supported by a welfare assistant, a psychologist or any kind of expert, either before the police or the prosecutor, or during the hearings before the assize court. This finding was sufficient to conclude that the applicant had not been cared for in an adequate manner during the proceedings in question.

The second case is the Grand Chamber judgment of *X and Others v Bulgaria*<sup>8</sup> from March this year.

Briefly the facts of the case were as follows: the applicants, three siblings born in Bulgaria, were adopted by an Italian couple. Shortly afterwards the children gave accounts to their adoptive parents of their sexual abuse whilst in an orphanage in Bulgaria. The parents lodged complaints with the Italian authorities who transmitted them to the Bulgarian authorities. They also contacted an Italian investigative journalist, who published an article alleging large-scale sexual abuse of children in the orphanage which received media attention in Bulgaria. Investigations opened in Bulgaria: all were discontinued for lack of evidence that a criminal offense had been committed. The Grand

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<sup>6</sup> *X and Others v. Bulgaria* [GC], no. 22457/16, § 178, 2 February 2021.

<sup>7</sup> *N.C. v. Turkey*, no. 40591/11, 9 February 2021 <sup>8</sup> *ibid*

Chamber of the Court found no violation of the substantive limb of Article 3 but a violation of its procedural (investigation) limb.

The judgment clarified the content of the positive obligations on a State in the context of the sexual abuse of minors in public care. It reiterated an important point: that the European Convention on Human Rights has to be applied in accordance with the principles of international law, in particular with those relating to the international protection of human rights. Accordingly, the Court found that Articles 18 – 24 of the Lanzarote Convention reinforced the Court's case-law on the requirement to ensure efficient criminal law provisions to deal with serious acts such as rape and the sexual abuse of children.

The Court specifically referred to numerous provisions of the Lanzarote Convention in assessing the effectiveness of the investigations undertaken by the Bulgarian authorities. The judgment refers to Article 30 § 5 (on the possibility of using investigative measures); Article 31 § 1 (a), (c) and (d) (the requirement to inform victims of their rights and the services at their disposal); Article 35 §§ 1 and 2 (on the need to conduct interviews with children in premises suitable for this purpose and to videotape their statements) and Article 38 (the possibility of recourse to international cooperation).

The third case, *RB v Estonia*<sup>9</sup> , is from June this year. The case concerned the criminal investigation into the allegations of sexual abuse of a four and a half year old child by her father. The failure of the investigator to advise the child of her duty to tell the truth and her right not to testify against her father led to the exclusion of her testimony and her father's acquittal of sexual abuse by the decision of the Supreme Court.

In addressing the application of criminal law provisions in practice in Estonia in the particular case, the Court specifically notes that it will take into account,

*"the criteria laid down in international instruments. In particular, it notes that the Lanzarote Convention, the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice and the relevant EU directives lay down a number of requirements relating to the collection and preservation of evidence from children (...) Although the Lanzarote Convention entered into force in respect of Estonia subsequent to the facts of the present case, the other relevant instruments contain provisions similar to those of that Convention."*

The Court found that there had been significant flaws in the domestic authorities' procedural response to the applicant's allegation of rape and sexual abuse by her father, which had not sufficiently taken into account her particular vulnerability and corresponding needs as a young child so as to afford her effective protection as the alleged victim of sexual crimes. Accordingly, without expressing an opinion on the guilt of the accused, the Court concluded that the manner in which the criminal-law mechanisms as a whole had been implemented in the present case, resulting in the disposal of the case on procedural grounds, had been defective to the point of constituting a violation of the respondent State's positive obligations under Articles 3 and 8.

I think that these three judgments from 2021 show very clearly the extent to which the Court is striving to interpret the European Convention on Human Rights in harmony with relevant international law standards and in particular the Council of Europe's own Lanzarote Convention.

Our exchange of views today helps in reinforcing the dialogue between the Court and your Committee. We may try to think of ways of institutionalizing that dialogue, for example by

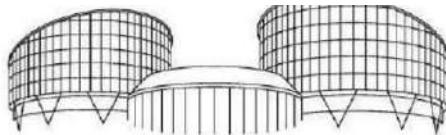
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<sup>9</sup> *RB v. Estonia*, no. 22597/16, 22 June 2021

appointing a focal point within the Court who would be in touch with your Committee's Secretariat on a more regular basis. This would encourage a good information flow between us.

Before I conclude my intervention, I would like to mention briefly the many new issues which the Court will no doubt be called upon to tackle in the coming years. Some of these are being dealt with already in your Committee. Here I am thinking of the effect of the COVID-19 pandemic on child protection issues; how new technologies might increase the risk of sexual abuse and exploitation and to what extent the refugee crisis leaves children more vulnerable.

I will now end my short introduction, as I am very keen to have sufficient time for a true exchange. Thank you for your attention and I look forward to hearing your questions.



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

**Exchange of views with the Lanzarote Committee**

**“Relevant case law of the ECtHR on the protection of  
children against sexual violence”**

**Speech by Robert Spano**

*October 4, 2021*

Dear Mr President, Dear  
committee members Dear guests,

It is a great pleasure for me to be here this afternoon to exchange views with you, members of the Lanzarote Committee.

From my point of view, these kinds of exchanges with the standard-setting and supervisory bodies of the Council of Europe absolutely fundamental. As chairman I have tried to as much momentum as possible during my mandate. Of course, the COVID-19 pandemic has not helped to promote face-to-face discussions. That is why I am extremely pleased to participate today.

I am firmly convinced that the Court cannot be an ivory tower: it must remain constantly alert to what is happening within the Council of Europe. The work of your committee enriches our jurisprudence. I hope that our jurisprudence may also enrich your work to inspire.

It is a sad reality that complaints about sexual exploitation and sexual abuse of children are not new. These complaints have been submitted and considered by this Court since its inception, when the Court held that children and other vulnerable persons have the right to effective protection by the State.

Over the years, the Court has considered examples of sexual abuse in various settings, such as within the family<sup>1</sup> , in nursing homes<sup>2</sup> , at school<sup>3</sup> and in churches<sup>4</sup> . The Court has also ruled on the protection of children against pedophiles on the internet<sup>5</sup> .

Most cases are investigated under Articles 3 and 8 of the Convention. Both articles contain a obligation of the state to ensure the physical and psychological integrity of a person.

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<sup>1</sup> *DP and JC v. the United Kingdom*, No. 38719/97, 10 October 2002 <sup>2</sup> *X and Y v Netherlands*, March 26, 1985, Serie A No. 91

<sup>3</sup> *OKeefe v. Ireland* [GC], No. 35810/09, ECtHR 2014 (extracts)

<sup>4</sup> See the ongoing case *JC and others v Belgium* (no. 11625/17).

<sup>5</sup> *KU v. Finland*, no. 2872/02, ECtHR 2008



In the context of Article 3, the Court has developed certain substantive and procedural positive obligations: first, the obligation to establish a legislative and regulatory framework for protection; secondly, in certain well-defined circumstances, the obligation to take operational measures to protect specific individuals from the risk of treatment provided in is in conflict with that provision; and thirdly, a obligation to conduct an effective investigation into demonstrable allegations of the imposition of such treatment.

6

It is important to remember that the Court has held that an effective investigation must in principle be capable of leading to the establishing the facts and identifying and, if necessary, punishing those responsible. This is not an obligation of result, but an obligation of means.

The Court has emphasised that the various procedural obligations under Article 3 of the European Convention on the Rights of the Human human beings must be interpreted in the light of norms of international law. More recently, the Court has emphasised that these obligations must be understood in the light of the Lanzarote Convention.

First of all, it is important to note that the Lanzarote Convention was drawn up on the basis of the standards that had already been established by the Court's case-law on violence against children, in particular as regards the procedural obligation to to conduct effective research, which I just talked about.

In the context of my presentation today, I would like to mention three Court decisions from 2021 in which the Court based directly on the Treaty of Lanzarote and/or specific statements by your Commission in support of its finding that there has been a violation of the European Convention on Human Rights.

The first case is *NC v. Turkey* from February 7. This case concerned the failure to protect the personal integrity of a vulnerable child during an excessively long criminal procedure regarding sexual abuse. The facts in this case, as in many of these cases are disturbing. The plaintiff was forced to work as a prostitute by two women when she was only was twelve years old. The following year she filed a complaint against them and the men with whom she had sexual relations had. As regards her complaint about the failure to provide assistance during the proceedings, the Court based its finding on several international instruments, including the Lanzarote Convention.

These provided guidelines regarding the assistance to be provided to children who were victims of sexual abuse and exploitation. In this case, the applicant was not given any assistance at any time during the eighteen months following the filing of her complaint, assisted by a social worker, a psychologist or another expert, nor by the police or the Public Prosecution Service, nor during the hearings before the Court of Assizes. This finding was sufficient to conclude that the applicant was the procedure in question had not been adequately handled.

The second case is the judgment of the Grand Chamber in the case *X and Others v. Bulgaria*<sup>6</sup> of March this year. The facts of the case were, in brief, as follows: the applicants, three siblings born in Bulgaria, were adopted by an Italian couple. Shortly after, the children told their adoptive parents about their sexual abuse in an orphanage in Bulgaria. The parents filed complaints with the Italian authorities, who forwarded them to the Bulgarian authorities. They took also contacted an Italian investigative journalist who published an article about large-scale sexual abuse of children in the orphanage, which received media attention in Bulgaria. Investigations were opened in Bulgaria: all investigations were stopped due to lack of evidence that a criminal offense had been committed. The Grand

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<sup>6</sup> *X and others v. Bulgaria* [GC], No. 22457/16, § 178, 2 February 2021.

<sup>7</sup> *N.C. v. Turkey*, no. 40591/11, February 9, 2021 <sup>8</sup> *ibid*

The Chamber of the Court found no violation of the substantive element of Article 3, but did find a violation of the procedural (investigative) part.

The judgment clarified the content of a State's positive obligations in the context of sexual abuse of minors in public care. It reiterated an important point: the European Convention on Human Rights must be applied in accordance with the principles of international law, in particular those relating to have on the international protection of human rights. The Court therefore ruled: that Articles 18 to 24 of the Lanzarote Convention confirm the case-law of the Court on the necessity to ensure effective criminal law provisions to deal with serious acts such as rape and child sexual abuse.

The Court specifically referred to numerous provisions of the Lanzarote Convention when assessing the effectiveness of the investigations carried out by the Bulgarian authorities. The judgment refers to Article 30, paragraph 5 (on the possibility to take investigative measures); Article 31, paragraph 1, points (a), (c) and (d) (the obligation to inform victims about their rights and the services available to them); Article 35, paragraphs 1 and 2 (on the need to interview children in order to suitable spaces and to record their statements on video) and Article 38 (the possibility of appealing to international cooperation).

The third case, *RB v Estonia* , is from June this year. The case concerned the criminal investigation into the allegations of sexual abuse of a four and a half year old child by her father. The fact that the investigator had not pointed out to the child her duty to tell the truth and her right not to testify against her father led to her testimony being suppressed excluded and her father was acquitted of sexual abuse by the Supreme Court ruling.

When dealing with the application of the provisions of criminal law in practice in Estonia in this particular case, the Court specifically states that it will take into account:

*"the criteria laid down in international instruments. In particular, it notes that the Lanzarote Convention, the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice and relevant EU directives impose a number of requirements regarding the collection and preservation of evidence from children (...). Although the The Lanzarote Convention entered into force with respect to Estonia after the facts in the present case, the other relevant instruments provisions comparable to those of that Treaty."*

The Court found that there were significant shortcomings in the procedural response of the national authorities to the applicant's claim of rape and sexual abuse by her father, which was not sufficiently taken into account with her specific vulnerability and the associated needs as a young child to ensure her effective protection offer as an alleged victim of sexual offences. The Court therefore concluded, without ruling on the guilt of the accused, that the manner in which the criminal justice mechanisms as a whole were used in the present case implemented, resulting in the settlement of the case on procedural grounds, was so defective that it constituted a violation of the positive obligations of the defendant State under Articles 3 and 8.

I think these three judgments from 2021 show very clearly the extent to which the Court is seeking to implement the European Convention on the Rights of Persons to interpret human rights in accordance with the relevant norms of international law, in particular the Council of Europe Lanzarote Convention.

Our exchange of views today contributes to strengthening the dialogue between the Court and your committee. We can try to think of ways to institutionalize that dialogue, for example by

Appointing a contact person within the Court of Audit who would maintain more regular contact with the secretariat of your committee. This would promote a good flow of information between us.

Before concluding my intervention, I would like to briefly mention the many new issues that the Court will undoubtedly have to deal with in the coming years. treat. Some of these are already being dealt with in your committee. I am thinking here of the consequences of the COVID-19 pandemic for children's rights.

sexual protection issues; how new technologies can increase the risk of sexual abuse and exploitation and to what extent the refugee crisis makes children more vulnerable.

I will now end my brief introduction, as I am very keen to have enough time for a real exchange.

Thank you for your attention and I look forward to answering your questions.



## Legislation and regulations

There are national and international laws and regulations for the various forms of sexual violence against children. These determine which sexual behaviors are punishable, what the rights are of victims and suspects and what punishments and measures there are for perpetrators.

## Criminal Code – Crimes against morality

Title XIV of the [Criminal Code](#) is about crimes against morals. Below are the relevant articles:

Article 239 (Outrages on decency)

Article 240 (Pornography)

Article 240a (Protection of minors under the age of 16)

Article 240b (Child pornography)

Article 242 (Rape)

Article 243 (Sexual penetration of an unconscious, incapacitated or insane person)

Article 244 (Sexual penetration of a person under the age of twelve)

Article 245 (Sexual penetration of a person aged twelve to sixteen)

Article 246 (Assault)

Article 247 (Indecent acts with unconscious, incapacitated, insane person, or child)

Article 248 (Adverse punishment)

Article 248a (Seduction of minors)

Article 248b (Juvenile prostitution)

Article 248c (Presence at sex shows with minors)

Article 248d (Sexual corruption)

Article 248e of the Criminal Code (Grooming)

Article 248f (Promoting indecent acts with a third party)

Article 249 (Indecent acts with abuse of authority/trust)

Article 250 (Coupling)

Article 251 (Additional punishment)

# Public Prosecution Service and Judiciary Policy Rules

The Public Prosecution Service (OM) has established policy rules for dealing with sexual offences. There are guidelines that describe the starting point for the sentence demanded in sexual offences. In addition, instructions describe how the Public Prosecution Service can best act in sexual offences. The Judiciary has drawn up guidelines for common cases. The judge can use these when determining the sentence to be imposed.

## OM Policy Rules

- [ŷ Instructions for morals](#)
- [ŷ Child pornography indication](#)
- [ŷ Guideline for criminal proceedings for sexual abuse of minors \(2015R047\)](#)
- [ŷ Guideline for criminal proceedings art. 248b Sr \(2015R054\)](#)
- [ŷ Prosecution Guideline for Child Pornography \(2013R008\)](#)
- [ŷ Prosecution Guideline for Rape \(2012R012\)](#)
- [ŷ Guidelines for handling sexting cases](#)

## Jurisprudence Landmarks

Within the judiciary, 'points of reference' have been developed for a number of common crimes.

These [ŷ national landmarks](#) are intended to promote legal certainty and legal unity.

However, judges are independent and may therefore deviate from these national guidelines.

For adult offenders, there are guidelines for child pornography, rape and juvenile prostitution. There are also guidelines for rape, sexual assault and indecent acts committed with children under the age of 16.

## International and European treaties

Many international and European treaties deal with themes that directly affect the protection of children against sexual violence. This overview contains the most relevant treaties.

- [ŷ International Convention on the Rights of the Child \(United Nations, 1989\)](#)
- [ŷ Optional Protocol on the sale of children, child prostitution and child pornography in the Convention on the Rights of the Child \(United Nations, 2000\)](#)
- [ŷ European Convention for the Protection of Human Rights and Fundamental Freedoms \(ECHR\)](#)
- [ŷ Council of Europe Convention on the Protection of Children against Sexual Exploitation and sexual abuse \(Lanzarote Convention, 2007\)](#)
- [ŷ Council of Europe Convention on preventing and combating violence against women and](#)

- [ü Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating of sexual abuse and sexual exploitation of children and child pornography](#)
- [ü Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing of minimum standards for victims in criminal proceedings](#)

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# Intermediary Foundation of the Universal Declaration of Human Rights

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To: COUNCIL OF EUROPE

DG II, Directorate-General for the Division of Children's Rights,  
secretariat of the Lanzarote Committee, executive secretary  
Mrs Agnes von Maraviÿ  
F-67075, STRASBOURG  
FRANCE.

Mierlo, 20-05-2025

Letter to the Lanzarote Committee

Dear Executive Secretary of the Lanzarote Committee.

Mrs Agnes von Maraviÿ,

In reply to Written Question No. 621 to the Committee of Ministers of the Council of Europe, by Mr Luca Volonté (Italy, Group of the European People's Party):

Doc. 13144, 18 March 2013, Serious breach of the Lanzarote Convention by the Netherlands, Answer to Written Question No. 621 (Doc. 13065) Adopted at the 1165th meeting of the Ministerial Delegates (13 March 2013).

The Committee of Ministers strongly supports the Lanzarote Convention as an important instrument in the fight against sexual abuse and sexual exploitation of children. In answer to the written question by the Honorable Member Volonté, the Committee of Ministers notes that the question in question is part of the monitoring procedure provided for in the Lanzarote Convention. This is the mandate of the Committee of Parties ('Lanzarote Committee'), composed of representatives of the Parties to the Convention, including representatives of the Parties that can accede to the Convention under Articles 45 and 46 (Chapter X of the Convention), and in which the Parliamentary Assembly has a representative. The Committee of Ministers as such is therefore unable to answer questions about the effective implementation of the Convention.

On the internet I found a booklet about child sexual abuse. It concerns a case the Dutch State, in which people from the higher echelons of politics are involved. This case attracted international attention. The booklet was made by a lady who has been committed to monitoring child sexual abuse for years. The booklet was sent by her e-mail on 18-04-2025 for information and not as a complaint to the Lanzarote Committee. She has not received a response from the Lanzarote Committee. With the permission of that lady, I am sending you this letter and request that you send your message in writing to: IFUD of Human Rights (chairman mr. JP van den Wittenboer), address: Kastanje 28, 5731 NK, Mierlo, Netherlands.

When you express your thanks on behalf of and for the Lanzarote Committee, you show appreciation for what someone has done. This is not only polite, but can also give someone a sense of recognition for their actions and increase the likelihood that they will continue to do so in the future.

The ECHR has stressed that the various procedural obligations under Article 3 of the European Convention on Human Rights must be interpreted in light of the norms of international law. More recently, the Court has stressed that these obligations must be understood in light of the Lanzarote Convention.

Exchange of views with the Lanzarote Committee

"Relevant ECHR case law on the protection of children from sexual violence"

Speech by Robert Spano

October 4, 2021

awaiting your reply, Yours sincerely,

IFUD of Human Rights

Chair

JP van den Wittenboer



booklet:

[https://archive.org/details/lanzarote-committee-sexual-abuse-children-dutch-state\\_202504](https://archive.org/details/lanzarote-committee-sexual-abuse-children-dutch-state_202504)

attachment reference to:

research reports, science, media etc.

**“ADVANCING CHILD-CENTRED JUSTICE:  
Preventing And Responding To Violence Affecting Children In Child Justice Systems”**



**TECHNICAL SUPPORT COMMITTEE**

## **MS. AGNES VON MARAVIË**

***Agnes von Maravië***

***Executive Secretary to the Lanzarote Committee***

***Head of Sexual Violence against Children Unit***

***Children's Rights Division***

***Directorate General of Democracy and Humanity***

***Dignity***

***Council of Europe***

As Head of the Council of Europe's Children's Rights Division, Agnes von Maravië oversees the implementation of the organizations' Strategy for the Rights of the Child 2024-2027, covering topics such as protection from violence, child-friendly justice, child participation, and children's rights in the digital environment. Agnes is also Executive Secretary of the Lanzarote Committee, which works on the Council of Europe's Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse.

Since she joined the Strasbourg-based Council of Europe in 2006, Agnes has worked for many years on children's rights, but also on judicial reform, family policies, national minorities, and on the organization's program and budget. She holds a degree in public policy and administration from Potsdam University (Germany) and studied at Science Po Lille (France).



[ text translation English to Dutch ]

To: COUNCIL OF EUROPE

DG II, Directorate-General for Children's Rights Division,

Secretariat of the Lanzarote Committee, Executive Secretary

Mrs. Agnes von Maravić

F-67075, STRASBOURG

FRANCE.

Mierlo, 20-05-2025

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Exchange of ideas with the Lanzarote Committee

"Relevant ECHR case law on the protection of children from sexual violence"

Speech by Robert Spano

October 4, 2021

Awaiting your reply, with the highest regards,

IFUD of Human Rights

Chair

JP van den Wittenboer

Booklet:

[https://archive.org/details/lanzarote-committee-sexual-abuse-children-dutch-state\\_202504](https://archive.org/details/lanzarote-committee-sexual-abuse-children-dutch-state_202504)

Attachment with reference to:  
research reports, science, media etc.

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# NETHERLANDS

sexual abuse children Dutch State



Lanzarote Committee 2025



TO: COUNCIL of EUROPE Children's Rights Division  
Lanzarote Committee F-67075 STRASBOURG Cedex , FRANCE

**SEND BY EMAIL**

e-mail:

lanzarote.committee@coe.int

**LANZAROTE TREATY**

Breda, 2025 18.04.2025

Dear Lanzarote Committee ,

Before you lies the report "Dutch State sexual abuse against children " in the Dutch language and translation partly in English. The Dutch authorities speak **untruths** that the case has been properly investigated. There is a cover-up culture with each other's protection.

Ivo Willem Opstelten Minister of Security and Justice (Netherlands) elected office in 2015 because there were doubts about his integrity after the committee chairman in the what is known in the Netherlands as the "receipt affair" about a deal with a drug criminal, also spoke in his report that there was a cover-up. It is the same Minister of Justice and Security Ivo Opstelten who frustrated the investigation in the "Joris Demmink case.

[LANZAROTE CONVENTION] Article 12. Reporting of suspicions of sexual exploitation or sexual abuse.

Each Party shall take the necessary legislative or other measures to ensure that the confidentiality rules imposed by internal law on certain professionals who come into contact with children in the course of their work do not hinder the possibility for such professionals to report to services responsible for the protection of children any situation of a child in respect of whom they have reasonable grounds to believe that he or she is a victim of sexual exploitation or sexual abuse.

**2.** Each Party shall take the necessary legislative or other measures to encourage any person who knows about or **suspects in good faith** that there has been sexual exploitation or sexual abuse of children to report such facts to the competent services.

## Article 119 of the Constitution

The House of Representatives assesses the facts charged against the law, fairness, morality and the interest of the state. If the House of Representatives considers there to be sufficient grounds for prosecution, it instructs the Attorney General at the Supreme Court to institute the prosecution. The decision to that effect contains a precise indication of the fact charged. Within three days after the House of Representatives has taken the decision, this is sent to the Attorney General together with the indictment and the information collected. A copy of the decision is sent to the person concerned, to Our Minister of Justice and Security and to the Senate. What if the government or the House of Representatives decides not to prosecute? The government or the House of Representatives may decide not to prosecute; such a decision is made by majority. This procedure also makes it impossible for third parties to object to a decision by the government or the House of Representatives not to prosecute. No legal action is open against such a decision, unless new facts or circumstances emerge. The decision not to prosecute must be motivated. This applies to the

assessment of the question of whether there are 'sufficient grounds for prosecution'. For this purpose the House of Representatives should not only test the facts alleged against the law, but also to fairness, 'morality and the state interest' (Article 18 Wmv ).

Article 6 of the European Convention on Human Rights protects the right to a fair trial. This includes proper reasoning in the event of a rejection. Various European and international treaties specify what a right to a fair trial is (Article 6 ECHR, 14 BUPO Convention). In essence, it concerns a fair and public trial by an independent and impartial court established by law. This also entails the right to a reasoned decision.

## Influence on freedom of statement by examining magistrate Huet in notarial deed. (Witness number 1) Huet

In 2014, the court cast doubt on Mr. Huet in order to declare differently than before the notary in 2013. Article 285a of the Dutch Criminal Code criminalizes intentionally expressing oneself verbally, by gestures, in writing or in images towards a person apparently in order to influence that person's freedom to make a statement truthfully or conscientiously before a judge or official. The judge summarily checks whether the document before him has the appearance of an authentic deed and as such, article 156 paragraph 2 of the Dutch Code of Civil Procedure applies, and only looks at whether it is signed at the end with the signature under oath of the notary. Separate special procedures apply to contesting authentic deeds. The judge himself will not conduct an in-depth investigation into the deed, and in such an unprofessional and illegal manner cast doubt on Huet .

Witness number 2 (Leendert de Koter) sworn statement before the examining magistrate.

In 1997, the police had indications that top official Joris Demmink and three chief public prosecutors were involved in the sexual abuse of underage boys. Former detective Leendert de Koter stated this on Wednesday before the examining magistrate in Utrecht. According to De Koter, the suspicions against Demmink were part of the so-called Rolodex investigation in 1997.

Video

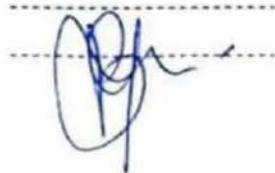
(courtroom Utrecht court borrows the kid under oath)

<https://archive.org/details/leendert-de-koter-onder-edde-utrecht-5-maart-2014>

Second Chamber questions from members **Bontes** and **Van Klaveren** ( **Bontes** Group / Van Klaveren) to the Minister and State Secretary of Security and Justice and the Prime Minister about the *Demmink affair* (submitted December 17, 2014). Answer from Minister **Opstelten** (Security and Justice), ah-tk-20142015-1097.

YOURS FAITHFULLY,

Y. Brinkerink



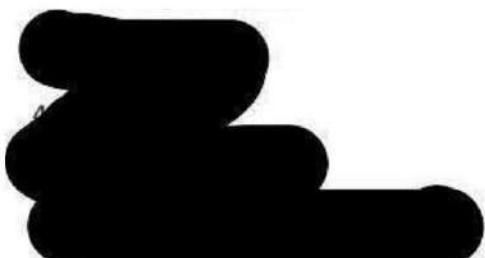
ATTACHMENT:

REPORT "Dutch State sexual abuse against children" pdf

(in the report the address has been blacked out for privacy and security reasons)

SENDER:

Mrs. Yvonne Brinkerink





# Lanzarote Convention

DutchStateSexual abuse against children



To:

**Council of Europe**

Children's Rights Division

**Lanzarote Committee**

F-67075 STRASBOURG Cedex

FRANCE

image photo cover by Freepik

APPLICANT /REQUESTOR

Mrs. Yvonne Brinkerink



## HOUSE OF REPRESENTATIVES

### STATES - GENERAL

#### INFORMATION SYSTEM

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Yours sincerely,

House of Representatives of the States General  
Plenary Secretariat/Legislation Office



Aan:

Tweede Kamer der Staten-Generaal Voorzitter  
Martin Bosma  
Postbus: 20018  
2500EA, Den Haag

Breda/ datum: *4 APRIL 2025*

Betreft:

- Verzoek om strafvervolging (Art. 119 Gw)
- Ambtsmisdrijven en ambtsovertredingen begaan door ministers, staatssecretarissen en leden van de Staten-Generaal.

Op grond van art. 119 Grondwet en art. 76 RO neemt de Hoge Raad, ook na hun aftreden, in eerste instantie en tevens in hoogste ressort kennis van ambtsmisdrijven en ambtsovertredingen begaan door ministers, staatssecretarissen en leden van de Staten-Generaal. De procedure is geregeld in art. 483 Sv in verbinding met de art. 4 - 19 van de nog steeds geldende Wet van 22 april 1855, Stb. 33, houdende regeling der verantwoordelijkheid van de hoofden der Ministeriële Departementen. Een vervolging van een minister ter zake van ambtsdelicten als bedoeld in art. 119 Grondwet en art. 76 RO is slechts mogelijk nadat daartoe last is gegeven bij Koninklijk Besluit of bij besluit van de Tweede Kamer der Staten-Generaal. De burgers in Nederland -individueel of in groepsverband- mogen hun volksvertegenwoordiging een brief sturen om last te geven tot vervolging Art.119 GW. Dat kunnen ze doen wanneer zij vinden dat de leden van de Tweede Kamer deze last wel had moeten geven maar de Tweede Kamer niet op eigen initiatief -met minimaal 5 kamerleden- dergelijke last tot vervolging heeft ingezet. Danwel door hoofdelijke stemming.

Het plegen van strafbare feiten en medeplegen -handelen of nalaten- begaan door ministers, staatssecretarissen en leden van de Staten-Generaal, Artikel 44Sr.

*\*(aanhechting zwart-wit kopie notariële akte dd. 17 mei 2013, vastlegging verklaring, repertoriumnummer: 20.212, zaaknummer: 2130517/XS, verleden voor mr. Alexander Stuijt notaris te Haarlem.) indien nodig door de notaris een afschrift af te geven. [Artikel 151 Rv waar dwingend bewijs is geregeld. Bij dwingend bewijs is de rechter verplicht om de inhoud van de authentieke akte als waar aan te merken en verplicht is bewijskracht te erkennen.]*

Deelname aan een of meer vermeende strafbare feiten onder de publieksrechtelijke rechtspersoon en onder regie van de Staat der Nederlanden. (1). Joris Demmink, beschuldigingen van kindermisbruik. (2). Ivo Opstelten schending Lanzarote Verdrag, artikel 30 lid 3. (het Verdrag van de Raad van Europa inzake de bescherming van kinderen tegen seksuele uitbuiting en seksueel misbruik (Lanzarote 25 oktober 2007). Kortweg het verdrag van Lanzarote genoemd. [Lanzarote Art.3. elke partij waarborgt dat de onderzoeken en strafrechtelijke procedures prioriteit krijgen en zonder onnodige vertraging worden uitgevoerd.]

Ik verzoek de voorzitter van de Tweede Kamer en middels de griffier uitdrukkelijk deze stukken te registeren volgens het protocol van de Kamer en tevens openbare ter inzage te leggen voor alle kamerleden.

Wij verzoeken u een exemplaar van deze brief te verstrekken aan [REDACTED]  
[REDACTED]

HOOGAFTEND,  
Naam Verzoeker  
Yvonne Brinkerink

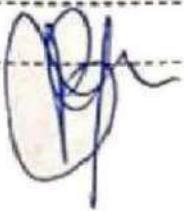
adres: 

### Bijlage(n) producties

1. handtekening ondertekenaar,
  2. lijst van deelnemers aan de vermeende strafbare feiten,
  3. zwart-wit kopie notariële akte dd. 17 mei 2013.

Prod 1: ONDERTEKENAAR :

Y. Brinkerink

A handwritten signature in blue ink, appearing to read "Y. Brinkerink". The signature is fluid and cursive, with a large, stylized 'Y' at the beginning. It is positioned above a dashed horizontal line and below a solid horizontal line.

Prod 2: SUSPECTS ALLEGED CRIMINAL OFFENCES:

1. Joris Demmink, former Secretary General of the Ministry of Justice (since 2010 Ministry of Security and Justice),
2. Ivo Opstelten. Former Minister of Security and Justice.

Prod 3: Black and white copy of notarial deed



## VASTLEGGING VERKLARING

Repertoriumnummer: 20.212  
(Zaaknummer: 2130517/XS)

Heden, zeventien mei tweeduizend dertien, -----  
verscheen voor mij meester Alexander Stuijt, notaris te Haarlem: -----

de heer Jacobus Franciscus van Huet, geboren te 's-Gravenhage op zeventien mei --  
negentienhonderd zesenveertig (Pspoort nummer: NM8R7RHR2, uitgegeven te -----  
Velsen op een maart tweeduizend twaalf), gehuwd, wonende te 2071 BP Santpoort--  
Noord, gemeente Velsen, Dinkgrevelaan 20.-----

### Inleiding-----

De verschenen persoon heeft mij verzocht een door de verschenen persoon ten overstaan  
van mij, notaris, af te leggen verklaring vast te leggen in een notariële akte. -----

### Verklaring -----

De verschenen persoon heeft de volgende verklaring aan mij afgelegd, waarna ik deze ---  
verklaring direct daaropvolgend heb vastgelegd in deze notariële akte: -----

*"In mei negentienhonderd twee en negentig heb ik vergezeld van meerdere collega's een --  
reis naar Londen gemaakt.* -----

*Aldaar logeerden we in de wijk Bayswater, aan de Leinster Square, Westminister Borough.  
Wij hebben daar in die week een aantal gevangenissen bezocht (4) en een dag een bezoek -  
gebracht aan het H.Q. van H.M. Prison Service.* -----

*Op dat moment was ik regio-manager van het Gevangeniswezen, regio Noordwest en belast  
met de reorganisatie van de penitentiaire inrichtingen Amsterdam, bekend onder de naam  
Bijlmer Bajes.* -----

*Uit mijn geheugen puttend waren bij deze dienstreis in ieder geval aanwezig: -----  
Mevrouw Storm van 's-Gravenzande stafmedewerker DG Jeugd en Delinquentenzorg* -----

*Mevrouw R. Verdonk, adjunct-directeur GW,* -----

*De heer Molenkamp, directeur Breda,* -----

*De heer Bosma, directeur,* -----

*De heer Piek, directeur,* -----

*De heer Ab van Maanen, directeur,* -----

*De heer Vroom, directeur (overleden in tweeduizend twaalf)* -----

*De heer van den Brand, directeur,* -----

*De heer Tigges ? (regiomanager)* -----

*De heer K. Boeij? Directeur Noord Holland Noord,* -----

*De heer J.F. van Huet, regiomanager GW.* -----

*Op één der avonden is na het eten aan de bar gesproken over het gedrag van de toenmalige  
DG Vreemdelingenzaken de heer J. Demmink.* -----

*Mevrouw A. Storm van 's-Gravenzande beklaagde zich toen ten overstaan van meerdere --  
collega's over het feit dat zij soms, meestal tegen het weekend, de opdracht kreeg van de --*

heer Demmink om via de telefoon jonge jongens te regelen (waarschijnlijk bij Haagse ----pooiers). Het laat zich raden wat betrokken daardoor mee uitspookte tegen betaling uiteraard Haar mededelingen aan ons waren een mixture van verontwaardiging en irritatie.----- Als ambtenaren was het het zoveelste verhaal over de heer Demmink zijn escapades en -- bijzondere aandacht voor jonge jongens. Veel hogere ambtenaren moeten hiervan hebben geweten. Niemand durfde hierover openlijk naar buiten te treden. Dat stond gelijk aan --- ambtelijke zelfdoding plegen naar mening van ondergetekende."

**Aflegging belofte** -----

Op deze verklaring heeft de verschenen persoon de belofte afgelegd in handen van mij, - notaris. -----

**Afschrift akte**-----

De verschenen persoon heeft mij tot slot verzocht een of meerdere afschriften van deze akte uitsluitend en alleen op daartoe gedaan verzoek af te geven aan de verschenen ----- persoon, dan wel aan diens erfgenamen. -----

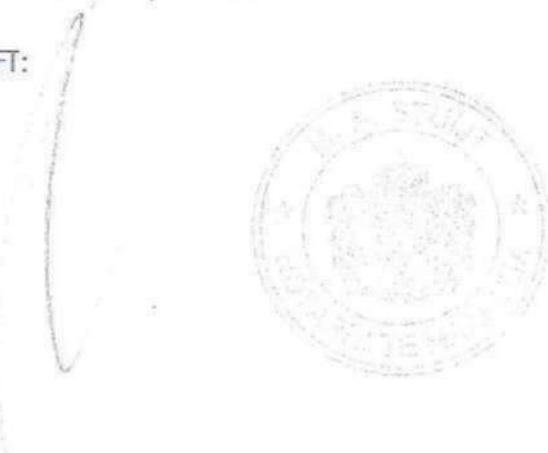
**Slot** -----

Deze akte is verleden te Haarlem op de datum in het hoofd van deze akte vermeld. De -- verschenen persoon is mij, notaris, bekend.-----

De inhoud van de akte is aan de verschenen persoon opgegeven en toegelicht. De ----- verschenen persoon heeft verklaard op volledige voorlezing van de akte geen prijs te --- stellen, tijdig voor het verlijden van de inhoud van de akte te hebben kennis genomen en met de inhoud in te stemmen. Vervolgens is de akte beperkt voorgelezen en onmiddellijk daarna door de verschenen persoon en mij, notaris, ondertekend. -----

(Volgt ondertekening)

UITGEGEVEN VOOR AFSCHRIFT:



[translation for students black and white copy of a notarial deed]

**RECORDING STATEMENT**

Repertoire number: 20,212 (Case  
number: 2130517/XS)

Today, May 17, 2013,  
appeared before me mr Alexander Stuijt , notary in Haarlem:  
Mr. Jacobus Franciscus van Huet nineteen , born in The Hague on May 17  
hundred and forty six (Passport number: NM8R7RHR2, issued in Velsen on March 1, 2012),  
married, living at 2071 BP Santpoort  
North, municipality of Velsen, Dinkgrevelaan 20.

**Introduction**

The person who appeared has requested me to make a statement by the person who appeared before to make a statement by me, the notary, to be recorded in a notarial deed.

**Declaration**

The person who appeared made the following statement to me, after which I statement  
immediately thereafter recorded in this notarial deed:

*"in may nineteen hundred and ninety-two I accompanied several lectures a statement  
immediately thereafter recorded in this notarial deed:  
in may nineteen hundred and ninetytwo i accompanied several college a  
made a trip to London. There we stayed at the Bayswater neighborhood , on Leinster Square, Westminster Borough .We  
visited a number of prisons there that week (4) and spent a day visiting the HO of HM Prison Service. At that time I was  
regional manager of the Prison Service, Northwest region and responsible for the reorganization of the  
Amsterdam penitentiary institutions, known as Bijlmer Bajes.*

From my memory, the following were present on this business trip:

Mrs. Storm van 's-Gravenzande staff member DG Youth and Offender Care Mrs. R. Verdonk,  
Deputy Director GW  
Mr. Molenkamp, director Breda, Mr.  
Bosma, Director,  
Mr. Piek, Director,  
Mr. Ab van Maanen, director,  
Mr. Vroom, director (died in two thousand and twelve)  
Mr. van den Brand, director,  
Mr. Tigges? (regional manager)  
Mr. K. Boeij ? Director North Holland North, Mr JF van  
Huet, regional manager GW

*One evening, after dinner, the behavior of the then DG Immigration Mr. J. Demmink .Mrs. A.  
Storm from 's-Gravenzande then complained to several college about the fact that she sometimes, usually towards the  
weekend, received the order from the*

*Mr. Demmink to recruit young boys by phone (probably from pimps in The Hague). It's easy to guess what the person involved did there in return for payment of course. Her communications to us were a mixture of indignation and irritation. As civil servants it was yet another story about Mr Demmink 's escapades and special attention to young boys. Many senior officials must have learned from this conscience. No one dared to speak openly about this. That is equal to commit official suicide in the opinion of the undersigned."*

**Taking the oath**

On this statement the person who appeared has made the promise in my hands, notary.

**Copy of deed**

Finally, the person who appeared has asked me to provide one or more copies of this to issue the did exclusively and solely upon request to the person appearing person, to we to aliens heirs.

**Finally**

This deed was executed in Haarlem on the date stated in the heading of this deed .

The person appearing is known to me, the notary.

The contents of the did have been stated and explained to the person who appeared. the person appearing declared that he did not accept any price after the deed was read out in full state that they have taken note of the contents of the deed in good time before it is executed and to agree with the contents. The deed was then read out in a limited manner and immediately subsequently signed by the person appearing and me, the notary

(Signature )

ISSUED FOR COPY:

#### Verifications of notarial deeds to be carried out by the court

The court is not competent to determine unclear or non-evident factual elements or to pronounce on notarial deeds, (Article 151 paragraph 1 Rv). In the case of authentic deeds, authenticity is assumed. In short, it is assumed that the deed was drawn up by an authorized person and the signature is assumed to be genuine unless proven otherwise, (Article 157 paragraph 1 Rv). Authentic deeds provide

against anyone, including third parties, compelling evidence. However, this only applies to what the official declares about his own observations and actions. The statements of the party that are included in an authentic or private deed only provide compelling evidence to the extent that this relates to statements that must be proven by the other party. As long as not

expressly disputed, the notarial deed under oath of the notary (or his deputy) is considered the most powerful means of evidence known to Dutch law.

#### Demmink affair Kro Brandpunt

In a report by Aart Zeeman, the current affairs program Brandpunt (KRO) on May 18, 2014, showed a shocking overview of the many unpleasant aspects of the Demmink affair: "For years, he has been dogged by accusations of sexual abuse: former top Justice official Joris Demmink. <https://archive.org/details/demmink-affaire-kro-brandpunt>

The Lanzarote committee may not -legally- interpret the content and text in the authentic deed by the notary. Only literal reading of the notarial deed is allowed.



On September 13, 2014, six former directors of correctional institutions sent a registered letter to the House of Representatives. The former directors want the members of parliament to act with an article 119 GW procedure via the Attorney General of the Supreme Court is pushing for the prosecution of Minister Ivo Opstelten. They accuse Opstelten of obstructing a criminal investigation into Joris Demmink, the former top official of Justice suspected of sexual abuse.

Source: General Daily

7-12-2014



Ivo Opstelten. Joris Demmink's commitment

## Complaint filed against Minister Opstelten in Demmink case

**Six former prison directors have filed a complaint against Minister of Security and Justice Ivo Opstelten. They believe the minister has committed an official misconduct by delaying the investigation into complaints against former top official Joris Demmink instead of taking swift action.**

By: Koen Voskuil 13-09-14, 16:45

Two Turkish men filed charges against then Secretary-General of Justice Joris Demmink in 2008 and 2010. They say they were abused by him as underage boys in Turkey in the mid-1990s.

The Public Prosecution Service is currently conducting a criminal investigation into this case, after these men forced it at the court in Arnhem.

While this criminal investigation is ongoing, Minister of Justice Opstelten has made several public statements about the Demmink case.

In April of this year he told NOS: 'It was nothing, it is nothing and it will be nothing.'

The former prison directors believe that Opstelten is 'intentionally frustrating' the investigation into Demmink with such statements. They sent a ten-page report by registered letter to the National Public Prosecution Service on Friday afternoon. They also want the Lower House to ask the Attorney General of the Supreme Court to prosecute Opstelten.

In a response, Opstelten refers to answers that Prime Minister Mark Rutte previously gave about the statement 'it was nothing, it is nothing and it will be nothing'. Rutte said in May that Opstelten had said that he assumed the innocence of Joris Demmink and had no reason to go back on that. 'The Minister of Security and Justice has also indicated that the Public Prosecution Service is not hindered by this statement that concerns the fact that Mr Demmink has not been convicted to date.'

## AANGIFTE TEGEN DE MINISTER VAN VEILIGHEID EN JUSTITIE

**Aan de Commissie voor de Verzoekschriften en Burgerinitiatieven van de Tweede Kamer van de Staten-Generaal en de Procureur-generaal bij de Hoge Raad**

Ondergetekenden:

1. K. Boeij
2. K. de Graaff
3. J. van Huet
4. B. Molenkamp
5. J.A. Poelmann
6. P.A.W. Scheffelaar Klots

doen aangifte en geven daarom hierbij de Tweede Kamer in overweging op de voet van artikel 119 Grondwet, artikel 76 lid 1 jo. 111 RO en artikel 483 Sv de Procureur-generaal bij de Hoge Raad op te dragen een strafrechtelijke vervolging in te stellen tegen:

### **I. Ivo Willem Opstelten, minister van Veiligheid en Justitie**

ter zake van:

**het in de periode 2010 t/m 2014 plegen van het ambtsmisdrijf strafbaar gesteld in de artikelen 355 lid 4 en 356 Wetboek van Strafrecht, te weten het opzettelijk dan wel door grove schuld nalaten uitvoering te geven aan de bepalingen van de Grondwet, internationaal bindende Verdragen en andere wetten, waarvan de uitvoering tot zijn ministeriële departement behoort, door bij herhaling zowel publiekelijk als tegenover de Tweede kamer der Staten-Generaal uit te spreken dat de diverse beschuldigingen van kindermisbruik aan het adres van zijn (voormalig) secretaris-generaal Joris Demmink iedere grond ontberen.**

### **II. N.N.**

ter zake van:

**het in de periode 2010 t/m 2014 uitlokken van en/of behulpzaam zijn bij of wel middelen verschaffen tot het plegen door de minister van Justitie & Veiligheid van het ambtsmisdrijf strafbaar gesteld in de artikelen 355 lid 4 en 356 Wetboek van Strafrecht, door de minister uit te lokken dan wel door**

**het verschaffen van middelen behulpzaam te zijn bij het doen van uitspraken in de media en in de Tweede kamer der Staten-Generaal als zouden de diverse beschuldigingen van kindermisbruik aan het adres van de (voormalig) secretaris-generaal Joris Demmink iedere grond ontberen.**

**“Quod licet Iovi non licet bovi”**

Ondergetekenden zijn allen werkzaam geweest in een directiefunctie binnen het Gevangeniswezen. Vijf van ons waren directeur van één of meerdere penitentiaire inrichtingen aan wie het beheer van de betrokken inrichtingen, waaronder de bewaking en behandeling van wetsovertreders, was toevertrouwd.

Op grond van onze taak en functie dienden wij te allen tijde boven elke verdenking verheven te zijn; integriteit stond terecht hoog in het vaandel bij het ministerie van Justitie. Bij verdenking van een inbreuk op deze vereiste onkruikbaarheid, zo is onze ervaring, werd vanuit de top van Justitie gereageerd met een gedegen onderzoek en met het bestraffen van de schuldige. Wij hanteerden zelf binnen de inrichtingen een strikt integriteitsbeleid dat in een aanzienlijk aantal gevallen tot het ontslag van medewerkers heeft geleid.

Wij zijn van mening dat deze eis van onkruikbaarheid aan alle ambtenaren van het ministerie van Veiligheid & Justitie dient te worden gesteld, welke hun positie ook is. Wij wijzen in deze tevens op artikel 162 Wetboek van Strafvordering, dat de verplichting inhoudt van ieder openbaar college en iedere ambtenaar die in de uitoefening van haar of zijn bediening kennis krijgen van een misdrijf met de vervolging waarvan zij niet zijn belast, daarvan onverwijld aangifte te doen bij de bevoegde autoriteiten. Dit artikel geldt in onverkorte vorm voor het hoofd van het ministerie van Veiligheid en Justitie dat bij uitstek is belast met de uitvoering en handhaving de strafwetten. Ook hij dient daarin te handelen zonder aanziens des persoons.

Wij hebben dan ook met stijgende verbazing kennis genomen van de ontwikkelingen in de kwestie Demmink en de uitspraken die minister Opstelten over deze kwestie in de openbaarheid en tegenover de Tweede Kamer der Staten-Generaal heeft gedaan.

In plaats van het voortvarend opdracht geven tot een gedegen strafrechtelijk onderzoek, wekt de minister met zijn voorbarige uitspraken dat zijn (voormalige) secretaris-generaal boven alle verdenking verheven is, de indruk het openbaar ministerie te bemmeren in zijn taakuitoefening. Het kennelijk onvermogen van justitie om in deze zaak klarheid te brengen in een groeiende reeks beschuldigingen van kindermisbruik tegen een hoge, thans gewezen justitieambtenaar en mogelijk andere justitieambtenaren vervult ons met plaatsvervangende schaamte voor het ministerie waarvoor dan wel waarmee wij ooit werkten.

Het optreden van de huidige minister van Veiligheid & Justitie in deze kwestie achten wij niet alleen in strijd met zijn ambtsplicht ex artikel 162 Sv, maar tevens in strijd met de strafwet die het intentioneel of door grove schuld nalaten door de minister uitvoering

te geven aan die wetten waarvoor zijn departement verantwoordelijkheid draagt, uitdrukkelijk strafbaar stelt. Het is de reden waarom wij de Tweede Kamer der Staten Generaal verzoeken de Procureur-generaal bij de Hoge Raad te gelasten over te gaan tot vervolging van minister Ivo Willem Opstelten, alsmede van diegenen die hem er toe brachten dit feit te plegen dan wel hem daarbij helpen.

## TOELICHTING:

### **Twee Turkse aanklachten**

In september 2008 respectievelijk mei 2010 is door twee Turkse jonge mannen aangifte gedaan tegen de toenmalig secretaris-generaal Joris Demmink. Op basis van deze aangifte die ondersteund werd door vijf schriftelijke en op video vastgelegde getuigenverklaringen heeft geen gedegen strafrechtelijk onderzoek plaatsgevonden. Eerst in 2011 is door het openbaar ministerie waarvoor de minister van Veiligheid & Justitie politieke verantwoordelijkheid draagt, besloten tot een 'oriënterend' feitenonderzoek, waarin geen plaats was voor het horen van aangedragen getuigen. Nog voordat dit onderzoek op 2 februari 2012 leidde tot een definitieve beslissing van niet vervolging van de heer Demmink, liet de minister van Veiligheid & Justitie in september 2011 journalisten van het *Algemeen Dagblad* weten dat er "*geen aanleiding was te twijfelen aan de integriteit van zijn secretaris-generaal*" reden waarom hij het 'oriënterend' onderzoek van het openbaar ministerie met vertrouwen tegemoet zag.<sup>1</sup>

Op 2 februari 2012 richtte de minister zich met een brief tot de Tweede Kamer met de opmerking: "*Mijn conclusie is dat van enige grond voor de juistheid van de beschuldigingen tegen de ambtenaar niet is gebleken*".<sup>2</sup>

Na publicaties in het *Algemeen Dagblad* over contacten die Demmink zou hebben gehad met pooters van minderjarige jongens liet minister Opstelten in zijn brieven van 3 en 8 oktober 2012 de Tweede Kamer per omgaande weten 'na raadpleging van de AIVD, de Rijksrecherche en het Openbaar Ministerie' zijn eerdere conclusie van februari 2012 nog steeds te onderschrijven, d.w.z. dat naar zijn mening van enige grond van de juistheid van de beschuldigingen jegens Demmink niet was gebleken. Hij voegde daaraan toe: "*Wat onderzocht moet worden, is onderzocht. De uitkomst daarvan is steeds geweest dat er geen begin van juistheid is gebleken ten aanzien van de geruchten en aantijgingen.*"<sup>3</sup>

Op 7 november 2013 moest de minister op vragen van de leden van de Tweede Kamer Oskamp en Omtzigt toegeven, dat het openbaar ministerie in het 'oriënterende onderzoek' geen navraag had gedaan bij de Turkse autoriteiten of Demmink in de jaren 90

<sup>1</sup> productie 1: AD d.d. 7 september 2011

<sup>2</sup> productie 2: Tweede Kamer, vergaderjaar 2011-2012, 33 000 VI, nr. 80

<sup>3</sup> productie 3: Tweede Kamer, vergaderjaar 2012-2013, 33 400 VI, nr. 3 en 4

Turkije had bezocht, zoals door diverse getuigen was verklaard maar door Demmink zelf was ontkend.<sup>4</sup> Desondanks had de minister zich in antwoord op vragen van dezelfde parlementsleden op 4 december 2012 en 26 februari 2013 zonder enig voorbehoud geschaard achter een brief van 17 augustus 2012 van de Nederlandse ambassadeur in Washington, Rudolf Bekink, waarin wordt vermeld dat "*The prosecution service—established that Mr. Demmink was not in Turkey in the period in question.*"<sup>5</sup>

Deze mededeling van Bekink, gericht aan leden van het Amerikaanse Congres en leden van de U.S. Helsinki Commission, die hun bezorgdheid hadden uitgesproken over het uitblijven van een gedegen Nederlands strafrechtelijk onderzoek naar de beschuldigingen tegen Joris Demmink, was bezijden de waarheid. Het onderzoek in Nederland had slechts geen bevestiging opgeleverd dat Demmink in de jaren 90 in Turkije was geweest terwijl in het onderzoek geen moeite was gedaan op dit punt navraag te doen bij de Turkse autoriteiten. Dat is iets heel anders dan wat de door Opstelten tegenover de Tweede Kamer onderschreven brief van de diplomaat Bekink suggereerde, te weten dat in het onderzoek was vastgesteld dat Demmink in die periode niet in Turkije was geweest.

Vanaf 14 juni 2013 beschikte de minister van Veiligheid & Justitie over een document van een Turkse officier van justitie, gedateerd 22 april 2013, waarin staat vermeld dat onderzoek in Turkije had uitgewezen dat Joris Demmink op 20 juli 1996 Turkije was binnengereisd en dat de Turkse aangevers als pleegdatum juli 1996 hadden genoemd. In zijn beantwoording van de vragen van de parlementsleden Oskamp en Omtzigt op 7 november 2013 noemde de minister dit document van de Turkse officier van justitie authentiek. Desondanks weigerde de minister gevolg te geven aan het verzoek van de Kamerleden om aan de Nederlandse ambassadeur Bekink te vragen zijn foute informatievoorziening aan de Amerikaanse congresleden te corrigeren (zie hiervoor prod 4).

Op 20 januari 2014 oordeelde het Gerechtshof te Arnhem op een klacht van de Turkse aangevers dat uit het door aangevers gepresenteerde materiaal en de verrichte oriënteerende feitenonderzoeken "*voldoende feiten en omstandigheden naar voren zijn gekomen waaruit een redelijk vermoeden van schuld voortvloeit dat beklaagde (Joris Demmink) zich schuldig heeft gemaakt aan de (--) gestelde strafbare feiten.*" Het hof achtte een nader met voldoende waarborgen omkleed strafrechtelijk onderzoek noodzakelijk en beval de vervolging van Demmink.<sup>6</sup> Het openbaar ministerie is dit onderzoek in februari 2014 gestart. Uit dit onderzoek zijn nog geen resultaten bekend, verwacht wordt dat het een jaar in beslag zal nemen.

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<sup>4</sup> **productie 4:** Brief d.d. 7 november 2013

<sup>5</sup> **productie 5:** Tweede Kamer, vergaderjaar 2012-2013, Aanhangsel van de Handelingen, nr. 691 en brief van 26 februari 2013, Tweede Kamer, vergaderjaar 2012-2013, Aanhangsel van de Handelingen, nr. 1459

<sup>6</sup> **productie 6:** Arrest d.d. 20 januari 2014 Hof Arnhem

Twee dagen na het arrest van het Gerechtshof te Arnhem liet de minister de Tweede Kamer weten dat hij de vergoeding van de kosten van Demminks strafadvocaat zou beëindigen, maar de kosten rechtsbijstand in de door Demmink tegen het Algemeen Dagblad wegens de publicaties van oktober 2012 aangespannen civielrechtelijke procedure, vanuit het ministerie zou blijven vergoeden.<sup>7</sup>

### **Het Rolodex onderzoek**

Op 23 december 2013 informeerde mr. H.J. Bolhaar, voorzitter van het College van procureurs-generaal namens het ministerie van veiligheid & Justitie, de advocaat van een Nederlands slachtoffer van kindermisbruik, over het Rolodex onderzoek dat eind jaren 90 plaats vond in het arrondissement Amsterdam. Dit onderzoek naar vermeend seksueel misbruik van jongens beneden de leeftijd van 16 jaar door officieren van justitie en andere hoge justitieambtenaren dat plaats vond in 1998 en 1999, leverde volgens hem uiteindelijk geen bewijs op tegen de verdachte personen. De brief met samenvatting schrijft letterlijk: “*Zoals ook al eerder gemeld in antwoorden op Kamervragen van 15 juni 2007 is de oud-SG van het ministerie van Veiligheid en Justitie op geen enkele wijze naar voren gekomen, noch is er informatie aangetroffen waaruit blijkt dat hij enige bemoeienis heeft gehad met het onderzoek.*”<sup>8</sup>

Op 5 maart 2014 legde een indertijd bij het Rolodex onderzoek betrokken CIE-rechercheur een verklaring af die in directe tegenspraak is met deze informatie van het ministerie van Veiligheid & Justitie. Dit gebeurde tegenover de rechter-commissaris van de rechtbank te Utrecht, die deze getuige De Koter onder ede hoorde op verzoek van de Stichting De Roestige Spijker. De getuige verklaarde o.a.:

*“Bij aanvang van het tactisch (Rolodex) onderzoek zijn er door de Rijksrecherche een aantal namen bekend gemaakt van hooggeplaatsten, en daarop diende verder onderzoek plaats te vinden. Dat waren de heren Waabeeke, Woldrik en Holthuijzen (die drie heren waren allen officier van justitie) en de heer Demmink die destijs werkzaam was bij het ministerie (---) Holthuijzen was CIE-officier bij de Rijksrecherche. (---) Als ik over Demmink spreek, bedoel ik de heer Joris Demmink. (onderstreging van indieners dezes)”*<sup>9</sup> Deze CIE-rechercheur verklaarde ook dat het onderzoek ‘stuk’ ging voordat daadwerkelijk tactisch onderzoek kon plaatsvinden.

Ook de tactisch leider van het Rolodex team, Jaap Hoek, liet op 5 maart 2014 tegenover de rechter-commissaris te Utrecht weten, dat het onderzoek uiteindelijk tot niets had

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<sup>7</sup> **productie 6a:** brief van 22 januari 2014 aan de Voorzitter van de Tweede Kamer. Zie ook: <http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2014/01/22/beantwoording-door-minister-opstelten-van-vragen-over-de-vergoeding-van-advocaatkosten-van-een-oud-ambtenaar/antwoorden-kamervragen-over-de-vergoeding-van-advocaatkosten-van-een-oud-ambtenaar.pdf>

<sup>8</sup> **productie 7:** brief d.d. 23 december 2013 aan mr. M.J. de Witte

<sup>9</sup> **productie 8:** proces-verbaal van voorlopig getuigenverhoor van L.G. de Koter d.d. 5 maart 2014, rechtbank Midden-Nederland, zaaknummer: C/16/347668/HA RK 13-200

geleid, omdat er overduidelijk was 'gelekt'. Hoek kon zich de namen van de hooggeplaatste justitieambtenaren tegen wie het onderzoek liep, echter niet meer herinneren.<sup>10</sup>

Nog scherper werd de informatie van mr. Bolhaar tegengesproken door de getuige E.M. Broersma, die op 15 april 2014 door de rechter-commissaris te Utrecht op verzoek van de Stichting de Roestige Spijker onder ede werd gehoord. Broersma werkte eind jaren '90 als commandant van het observatieteam bij de afdeling Terrorisme en Bijzondere taken. Hij kreeg eind 1998 de bijzondere opdracht informatie te verzamelen over vier verdachten, waarnaar de Rijksrecherche op dat moment onderzoek deed. Hij verklaarde: "Een van die verdachten was de heer Demmink. (--) De reden waarom dit onderzoek zo kort liep, was dat de zaak op enig moment stuk was. Ik bedoel daarmee dat er gelekt is naar een van de betrokken verdachten (--) dat betrof de heer Holthuis (--) hoofdofficier van het landelijk parket."<sup>11</sup>

Hetgeen de direct betrokken rechercheurs over het Rolodex onderzoek verklaren is een bevestiging van wat de toenmalig CID-officier van justitie Fred Teeven in 2007 al aangaf over de zaak. De huidige staatssecretaris van Justitie Teeven verklaarde toen onder ede dat het onderzoek indertijd voortijdig door contra-acties kapot was gemaakt: "Het ging om een onderzoek van de Rijksrecherche en de zedenpolitie (--) er is getapt, maar er is verder geen vervolging ingesteld. De hoofdofficier van justitie van Amsterdam was verantwoordelijk en heeft mij verzocht een onderzoek in te stellen. (--) Ik was als CIE-officier van justitie betrokken (--) er is getapt, maar er is verder geen vervolging ingesteld. (--) Op enig moment zijn er contra-acties gekomen (--) Voordat het onderzoek eindigde speelde dit al."<sup>12</sup>

De baas van Fred Teeven was indertijd hoofdofficier van justitie Hans Vrakking. Het Rolodex onderzoek was op zijn initiatief gestart. Ook hij beaamt dat de naam Demmink indertijd was gevallen in het Rolodex onderzoek. Hij vertelde in maart 2014 aan de NRC journalist Haenen dat indertijd bij de BVD belastende informatie binnen kwam over Demmink: "De chauffeur van Demmink, Rob Mostert (--) had tegenover de BVD verteld 'er niet meer tegen te kunnen'. Hij zat ermee dat Demmink in de dienstauto af en toe seks had met jongens. Uiteindelijk werd na overleg met Teeven besloten de informatie over Demmink niet verder te onderzoeken omdat dit buiten het bereik van de Rolodex zaak lag. (--) De naam van Demmink is dus wel degelijk langs gekomen, maar niet verder bekeken (--) En toen gebeurde er iets heel raars. (--) Harry Borghouts belde. Waar ben jij mee bezig, riep hij. Jij bent bezig een van mijn ambtenaren te onderzoeken (--) Demmink. Toen heb ik gezegd: we onderzoeken van alles, maar Demmink maakt geen deel uit van het onderzoek (--) De dag na dit telefoongesprek (--) bleek dat het onder-

<sup>10</sup> **productie 9:** proces-verbaal van voorlopig getuigenverhoor van J. Hoek d.d. 5 maart 2014, rechtbank Midden-Nederland, zaaknummer: C/16/347668/HA RK 13-200

<sup>11</sup> **productie 10:** proces-verbaal van voorlopig getuigenverhoor van E.M. Broersma d.d. 15 april 2014, rechtbank Midden-Nederland, zaaknummer: C/16/347668/HA RK 13-200

<sup>12</sup> **productie 11:** proces-verbaal van verhoor d.d. 12 april 2007 van Fred Teeven achter gesloten deuren, rechtbank Den Haag, parketnr. 09/754023-06

*zoek uitgelekt en dus kapot was. (---) Borghouts zegt dat hij van Demmink hoorde over het Rolodex onderzoek en Demmink zegt het van een of andere hoofdofficier van justitie te hebben gehoord.* "<sup>13</sup>

De interventie door de toenmalig secretaris-generaal van Justitie Borghouts voor zijn ambtenaar Demmink, zoals geschetst door Vrakking, wordt beaamd door de toenmalig voorzitter van het College procureurs-generaal, René Ficq. Ficq leest uit zijn oude aantekeningen: *"Deze (Borghouts) was aangesproken door Demmink. Hij had vernomen dat hij voorwerp van onderzoek zou zijn in Amsterdam, alsmede een hoofdofficier van justitie."*<sup>14</sup>

### **Reactie minister van Veiligheid & Justitie Ivo Opstelten**

Uit de verklaringen van de in 1998 bij het Rolodex onderzoek betrokken rechercheurs komt een alarmerend beeld naar voren van een strafrechtelijk onderzoek naar mogelijk kindermisbruik van hoge justitieambtenaren, dat voortijdig effectief wordt gefrustreerd door lekken naar en ingrijpen van hoge ambtenaren uit het justitieapparaat. Het gaat hier niet om één zegsman, maar om drie direct betrokken rechercheurs, de Koter, Hoek en Broersma, een betrokken CIE officier van justitie, thans staatssecretaris Veiligheid & Justitie en de verantwoordelijke hoofdofficier van justitie.

De minister van Veiligheid & Justitie, verantwoordelijk voor de juiste uitvoering van de wetten, heeft op grond van deze verklaringen geen enkele actie genomen om in deze kwestie de volledige waarheid boven tafel te krijgen. Erger, minister Opstelten heeft op de aangelegde verklaringen niet dan in afwijzende termen publiekelijk gereageerd.

Na de verklaringen van De Koter, Hoek en Vrakking heeft de minister zich opnieuw tot de Tweede Kamer der Staten-Generaal gewend met het bericht dat het Rolodex onderzoeks dossier opnieuw was bestudeerd door het openbaar ministerie, maar dat opnieuw was vastgesteld dat de oud-secretaris-generaal op geen enkele wijze in dit onderzoek naar voren was gekomen. In de brief wordt met geen woord gerept over het 'lekken' en van hogerhand effectief 'stuk' maken van het onderzoek zoals beschreven door De Koter, Hoek, Teeven en Vrakking en later ook Broersma.<sup>15</sup>

Na de verklaring van oud-rechercheur Broersma dat hij indertijd de opdracht kreeg vier verdachten te volgen waaronder Demmink, reageerde de minister op 15 april 2014 opnieuw in het openbaar. Tegenover diverse media gaf hij opnieuw aan overtuigd te zijn van de onschuld van de oud secretaris-generaal. Aan de NOS liet hij over de onderzoeken naar Demmink weten: *"Het was niks, het is niks en het zal niks worden."*<sup>16</sup>

<sup>13</sup> **productie 12:** NRC 22 maart 2014

<sup>14</sup> **productie 13:** Volkskrant 8 maart 2014

<sup>15</sup> **productie 14:** Brief d.d. 27 maart 2014 aan de voorzitter van de Tweede Kamer

<sup>16</sup> Zie: <http://www.radio1.nl/item/190683-Opstelten:%20zaak-Demmink%20is%20niks,%20wordt%20niks.html>

### **Frustratie van de wet: schending van artikel 355 lid 4 subsidiair 356 WvS**

De minister van Veiligheid & Justitie is politiek verantwoordelijk voor het functioneren van het openbaar ministerie. De minister kan aanwijzingen geven betreffende de uitvoering van de taken en bevoegdheden van het openbaar ministerie. Deze aanwijzingen kunnen algemeen en bijzonder van aard zijn en ook individuele zaken betreffen (artikel 127 RO). De leden van het openbaar ministerie zijn verplicht de aanwijzingen van de minister op te volgen. Dit impliceert dat ook publieke uitspraken van de minister over individuele zaken, niet zijnde concrete aanwijzingen, invloed zullen hebben op de wijze waarop het openbaar ministerie in die zaken zijn werkzaamheden zal verrichten. Wanneer deze uitspraken gericht zijn op het frustreren van de ten uitvoerlegging van de wet of internationaal bindende verdragen, impliceert dit een strafrechtelijke verantwoordelijkheid van de minister zoals bedoeld in artikel 355 lid 4 WvS.

Het openbaar ministerie is belast met de vervolging van strafbare feiten. Misbruik van jongeren beneden de 16 jaar is strafbaar gesteld in ons Wetboek van Strafrecht. Nederland heeft het Verdrag van Lanzarote (2007) ondertekend. Dit verdrag eist dat de strafrechtelijke onderzoeken en procedures betreffende seksueel kindermisbruik prioriteit krijgen en zonder onnodige vertraging worden uitgevoerd door de lidstaten (artikel 30). Het verplicht de lidstaten bovendien de vervolging van seksueel kindermisbruik niet afhankelijk te stellen van de aangifte of beschuldiging door het slachtoffer (artikel 32).

Nederland is ook lid van het Europees Verdrag tot bescherming van de rechten van de mens (1950). Het Europees hof voor de Rechten van de Mens heeft in een aantal uitspraken duidelijk gemaakt dat seksueel misbruik van kinderen moet worden gekwalificeerd als een schending van de artikelen 3 en 8 van het EVRM: het recht om verschoond te blijven van onmenselijke behandeling en marteling en het recht op familie- en privéleven. De artikelen 3 en 8 impliceren aldus het Europees Hof een positieve verplichting van de Staat om kinderen te beschermen tegen o.a. seksueel misbruik. Hieronder valt een effectief en voortvarend strafrechtelijk onderzoek, onmiddellijk ingesteld na de eerste aangiften.<sup>17</sup> De Hoge Raad erkent deze internationale verplichting explicet.<sup>18</sup>

<sup>17</sup> (EHRM 24 september 2004, M.C. tegen Bulgarije (application no. 39272/98), EHRM 20 maart 2012, C.A.S. en C.S. tegen Roemenië (application no. 26692/05), EHRM 15 augustus 2012, I.G. tegen Moldova (application no. 53519/07) en EHRM 28 Januari 2012, O'Keeffe tegen Ierland, (application no. 35810/09)

<sup>18</sup> Hoge Raad 18 april 2014, **ECLI:NL:HR:2014:948** (OM/Vereniging Martijn), rov 3.11.3 jo. 3.9 in navolging van de A.G. L. Timmerman in zijn conclusie, ECLI:NL:PHR:2013:2379, rov 3.21-3.27: Daarin schrijft Timmermans o.a.: *“Onder art. 3 EVRM is een positieve verplichting aangenomen om preventieve en represieve maatregelen te nemen ter bescherming van kinderen tegen lichamelijke mishandeling wanneer men, bijvoorbeeld naar aanleiding van herhaalde waarschuwingen of gewichtige aanwijzingen, weet of redelijkerwijs had behoren te weten dat het kind ter zake aan een risico werd blootgesteld. Deze rechtspraak is vervolgens toegepast in het kader van seksueel misbruik. In verband met art. 8 EVRM is een positieve verplichting aangenomen om (gepogde) vergrijpen te criminaliseren en op effectieve wijze te onderzoeken en vervolgen, te meer wanneer het lichamelijke en morele welzijn van een kind bedreigd wordt”*

In de kwestie Demmink zijn naar de mening van het Gerechtshof te Arnhem aangiften uit 2008 en 2010 wegens kindermisbruik in Turkije onvoldoende onderzocht. Het hof heeft daarom op 20 januari 2014 het openbaar ministerie bevolen deze aangiften alsnog te onderzoeken. Internationale verdragen vereisen niet alleen een gedegen, maar ook een voortvarende afhandeling van dit soort aangiften. Voor de reeds opgelopen vertraging draagt de minister van Veiligheid & Justitie niet alleen politieke verantwoordelijkheid maar ook strafrechtelijke verantwoordelijkheid. Zijn directe bemoeienis met de kwestie was er vanaf september 2011 immers bij voortdurend opgericht de aangiften tegen Demmink te bagatelliseren en de integriteit van zijn secretaris-generaal bij voorbaat boven alle twijfel te verheffen. Nog in oktober 2013 liet de minister de Tweede Kamer weten dat "*alles was onderzocht*" maar dat er nog "*geen begin van juistheid is gebleken ten aanzien van de geruchten en aantijgingen.*" Met dit handelen heeft de minister de uitvoering van de wet en internationale verplichtingen actief gefrustreerd.

De minister heeft het daarbij niet gelaten. Tijdens het nu lopende door het hof Arnhem bevolen onderzoek heeft hij zich opnieuw uitgelaten over de aanklachten wegens kindermisbruik aan het adres van zijn oud secretaris-generaal. In reactie op een oud-rechercheur die onder ede verklaarde in 1998 de opdracht te hebben gehad met zijn observatieteam Demmink te volgen als verdachte van kindermisbruik, antwoordde de minister van Veiligheid & Justitie publiekelijk: "*het was niks, het is niks en het wordt niks.*" Hij beïnvloedt daarmee opnieuw op ontoelaatbare wijze de leden van het openbaar ministerie die op dit moment bezig zijn het door de rechter opgedragen onderzoek uit te voeren en frustreert daarmee intentioneel de juiste uitvoering van de wet waarvoor zijn ministerie verantwoordelijk is.

Daarnaast draagt de minister de volle politieke verantwoordelijkheid voor het ambtsmisbruik begaan door leden van het openbaar ministerie en het ministerie van Justitie, zoals recent omschreven in de verklaringen van drie oud-rechercheurs, en twee oud-officieren van justitie over de teloorgang van het Rolodex onderzoek. Het van bovenaf frustreren van strafrechtelijk onderzoek naar mogelijk eigen strafbaar handelen: misbruik van jongens jonger dan 16 jaar, moet worden gezien als zeer ernstig strafbaar handelen, dat de integriteit van onze gehele strafrechtspleging raakt. Dit behoort in een naar behoren functionerende rechtsstaat na bekend worden, per onmiddellijk en met alle middelen te worden onderzocht. De verantwoordelijkheid hiervoor ligt bij de minister van Veiligheid & Justitie. Wanneer de minister hierin geen verantwoordelijkheid neemt en erger, de boodschappers van het plaats gevonden kwaad en public laat weten dat er niets aan de hand "*was en is*" frustreert hij intentioneel de uitvoering van de wetten, die aan zijn ministerie is opgedragen. De minister schendt ook hiermee artikel 355 lid 4 WvS.

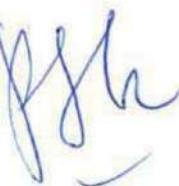
Ondergetekenden verzoeken uw commissie daarom de Tweede Kamer in overweging te geven de procureur-generaal bij de Hoge Raad op te dragen Ivo Opstelten, Minister van Veiligheid en Justitie strafrechtelijk te vervolgen terzake overtreding van artikel 355 lid 4 subsidiair artikel 356 Wetboek van Strafrecht en leggen dit verzoek ter kennisneming neer bij de Procureur-generaal bij de Hoge Raad.

K. Boeij

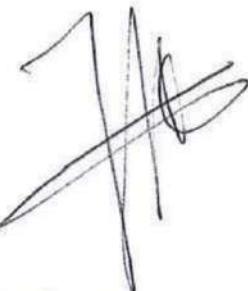


5 september 2014

K. de Graaff

I.D. 

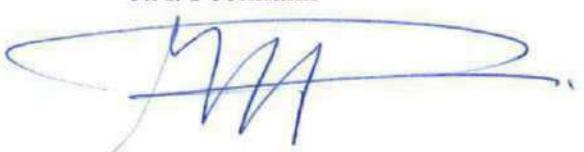
J. van Huet



B. Molenkamp



J.A. Poelmann



P.A.W. Scheffelaar Klots



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**31 808 (R1872)**

**Approval of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, concluded in Lanzarote on 25 October 2007 (Trb. 2008, 58)**

**No. 3**

**EXPLANATORY MEMORANDUM**

**1. Introduction**

The advice of the Council of State of the Kingdom is not made public, because it is clearly approving (Article 25 a, fifth paragraph in conjunction with fourth paragraph, under b, of the Council of State Act).

Growing children deserve all of our protection. It is of the utmost importance that children grow up in a safe environment and can develop into adults in a healthy and balanced way.

People who are victims of sexual violence or abuse in their childhood often carry the scars of these traumatic events with them for the rest of their lives. Family, society and government must therefore each make the greatest effort, based on their own responsibility, to protect children from violations of their physical and mental integrity. The protection that the government can offer also includes criminal protection against sexual exploitation and sexual abuse.

Sexual exploitation and sexual abuse of children are a global phenomenon and require a strong approach both nationally and internationally. Sexual exploitation of children is often accompanied by serious and often organised cross-border crime. Developments in technology and on the Internet contribute to child pornography easily spreading across national borders and new forms of abuse emerging. Given this international dimension, preventing and combating sexual exploitation and sexual abuse of children requires intensive and effective international cooperation. To this end, many relevant legal instruments have already been established internationally. Developments in society, such as the increased use of the Internet by both children and perpetrators, pose the challenge for governments to ensure that policy and legislation on preventing and combating sexual exploitation and sexual abuse keep pace with this as much as possible and to adjust or tighten them where necessary. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2008, 58; hereinafter: the Convention), concluded in Lanzarote on 25 October 2007, represents the latest international agreement in this area and should therefore be welcomed. The Cabinet also considers the Convention to be a support for intensifying the fight against sexual exploitation and sexual abuse.

Trb.

importance and urgency that the Council of Europe attaches to rightly attributes to the subject – also in the context of the three-year Council of Europe programme «Building a Europe for and with children» underlined. On –, 25 October 2007, the Convention was opened for signature in Lanzarote. On that occasion, the Convention was signed by the Kingdom of the Netherlands. Currently (May 2008), 28 Member States of the Council of Europe have signed the Convention. The Convention is not yet entered into force.

The Convention is comprehensive and multidisciplinary in nature and, as stated in Article 1, aims to achieve the following: (1) preventing and combating sexual exploitation and sexual abuse of children, (2) protection of the rights of children who are victims of sexual exploitation and sexual abuse and (3) promoting national and international cooperation in the fight against sexual exploitation and child sexual abuse.

The Convention concerns the protection of children against sexual exploitation and sexual abuse in a broad sense and covers a large number of subjects that relate to that protection. In addition to criminal and sanction provisions it concerns preventive and protective measures, procedural provisions, intervention measures, and measures relating have on national coordination and international cooperation.

The Treaty consists of thirteen Chapters: Chapter I (Objectives, principle of non-discrimination and definitions), Chapter II (preventive measures), Chapter III (specialised authorities and coordinating bodies), Chapter IV (protective measures and assistance to victims), Chapter V (intervention programmes or -measures), Chapter VI (substantive criminal law), Chapter VII (investigation, prosecution and procedural law), Chapter VIII (recording and storage of data), Chapter IX (international cooperation), Chapter X (supervisory mechanism), Chapter XI (relationship with other international instruments), Chapter XII (amendments to the Treaty), Chapter XIII (final provisions).

The Treaty is partly based on existing international agreements in this area. In particular, mention may be made of the United Nations on 20 November 1989 in New York Convention on the Rights of the Child (. 1990, Trb 46 and 17) and the Optional Protocol, which was established in New York on 25 May 2000 Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (. 2001, 63 Trb and 130), which was established in New York on November 15, 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transboundary Trafficking organised crime (. 2001, 69 and 2004, 35) and the context of the International Labour Organization on 17 June 1999 in Geneva Convention on the Prohibition and Immediate Removal of action for the elimination of the worst forms of child labour (2001, 69 and 2004, Trb 35). At the level of the European Union, are referred to as the Framework Decision 2004/68/JHA of the Council of the European Union of 22 December 2003 on combating sexual exploitation of children and child pornography (L 13), Framework Decision 2001/220/JHA of the Council of the European Union of 15 March 2001 on the position of the victim in criminal proceedings (Council PbEG L 82) and the framework of the European Union Decision 2002/629/JHA of 19 July 2002 PbEG on combating trafficking in human beings (L 203). The Council of Europe

The Convention contains duplications with the above-mentioned agreements. However, on a number of points the Convention goes a step further. As a result, it clearly has added value. This applies in particular to a number of new criminal provisions, broad jurisdiction provisions to combat sex tourism and provisions relating to intervention programmes and measures aimed at perpetrators. With regard to the criminal provisions, special attention was paid to whether the ongoing development of technology, the further digitalisation of society and the increasing use of open communication possibilities on the internet require further criminal protection of children against abuse. The new Convention therefore constitutes the most recent representation of the international consensus on the criminal protection of children and fits in with the government's policy in these areas. A number of the criminalisation obligations included in the Convention require implementing legislation in the Netherlands. This legislation is included in the bill to implement the Convention.

Under Article 48 of the Treaty, no reservations may be made to the Treaty, except for those provisions where the Treaty expressly provides for this possibility. The Netherlands intends not to make use of these possibilities.

As regards the relationship between the Treaty and the European Union, it should be noted that the Treaty provides for the possibility of accession by the European Community. No final decision has yet been taken on this matter.

The Convention is accompanied by an explanatory report. This report provides an authentic explanation and justification of the articles in the Convention. It is published on the Council of Europe website (<http://conventions.coe.int/Treaty/EN/Reports/Html/201.htm>).

#### Kingdom position

The Government of the Netherlands Antilles has indicated that it considers it desirable to extend the Convention to its country. The Netherlands Antilles, where human rights are highly regarded, cannot permit the sexual exploitation and sexual abuse of both children and adults on its territory. Such acts are an attack on and constitute an infringement of the honour and human dignity of an individual. Dishonest persons who have a profit motive with such acts and wish to enrich themselves from the suffering of others should also be deprived of this possibility. As regards legislation, Book 2, Title XIV of the current Criminal Code contains a number of penal provisions relating to the sexual exploitation and sexual abuse of children. These provisions will be amended and expanded in Book 2, Title XIII of the new draft Criminal Code. When this amended Criminal Code enters into force, the Convention will not require any further implementing legislation in the area of criminalisation. In addition to the criminalization of the sexual exploitation and sexual abuse of children, the implementation of

The Government of Aruba has also indicated that it will be so applicable to the Treaty to consider desirable for her country. As far as the matter is still not legally regulated, this will be provided for in the new Aruban Criminal Code.

Approval is requested for the entire Kingdom. The Treaty will be ratified for the various countries within the Kingdom after the necessary implementing legislation has been provided. In accordance with Article 18 of the Vienna Convention of 23 May 1969 Vienna Convention on the Law of Treaties (Trb. 1972, 51) must countries within the Kingdom also expressed their support for ratification refrain from actions that conflict with the object and purpose of the Treaty.

## **2. Article-by-article explanation**

### **2.1 Chapter I (Objectives, principle of non-discrimination and definitions)**

#### **Article 1 (Objectives)**

In the introduction to this explanatory memorandum, mention has already been made of the broad objectives of the Treaty. These are reflected in the first paragraph. The Convention does not only concern the prevention and combating of sexual exploitation and sexual abuse, but also on the protection of the rights of children who are victims of sexual exploitation and sexual abuse. The scope of the Convention means that not all of its components are primarily within the domain of Justice; responsibility for the implementation of the Treaty is shared by various departments. Article 1 further establishes beyond doubt that both national and international cooperation is essential for an effective approach to sexual exploitation and sexual abuse.

The second paragraph states that a specific monitoring mechanism must ensure effective implementation of the treaty obligations. To this end, a Committee of the Parties shall be established called (see below the explanation of Chapter X).

#### **Article 2 (Principle by non-discrimination)**

This provision emphasises that the implementation and execution of the provisions of the Convention must be guaranteed without any discrimination on any grounds whatsoever. The classic grounds of discrimination, derived from Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and Article 1 of Protocol No. 12, concluded in Rome on 4 November 2000 to the ECHR (2001p.18), are mentioned. In addition, the Convention further includes the grounds of "sexual orientation", "health" and "disability". However, the list is not exhaustive.

#### **Article 3 (Definitions)**

The Convention defines "child" in subparagraph (a) as any person under the age of than eighteen years. This is in line with the internationally accepted definition.

As regards what the Convention understands by "sexual exploitation and sexual abuse" in part (b) refers to the provisions of Articles 18 to and criminal conduct defined in Article 23 of the Convention. Where

the present Convention also covers sexual abuse as well as exploitation such.

Finally, subparagraph (c) sets out what is covered by the Treaty

The term "victim" must be understood as meaning any child who is subjected to sexual exploitation or sexual abuse.

## 2.2 Chapter II (Preventive measures)

### Article 4 (Principles)

This provision reflects the main objective of the Treaty: prevent sexual exploitation and sexual abuse of children take place. Parties are obliged to take the necessary measures to protect children from sexual exploitation and sexual abuse to protect. When taking measures, parties have room to develop its own policies and policy programs. The government is in favor of a strong approach to child abuse. Sexual exploitation and sexual abuse are a serious form of child abuse. The protection of children from sexual exploitation and sexual abuse is an integral part of the broad approach to child abuse. The package of provisions and measures that will be taken in the Netherlands in this area in the near future is laid down in the Action Plan to Combat Child Abuse (Parliamentary Papers II 2006/07, 31 015, no. 16). Four core objectives are for the Action Plan approach child abuse leading: prevention, detection, stopping and limiting of the harmful effects of child abuse. With these core objectives, the Action Plan ties in with the broad approach of the Convention, which both preventive, protective and care-providing, as well as criminal law provisions have been included.

### Article 5 (Recruitment, training and awareness touch of persons that during their work with children in come)

The first and second paragraphs of this article are about increasing knowledge and awareness about sexual exploitation and sexual abuse in those who work in the environment of children. The Action Plan approach child abuse includes a number of measures aimed at professional development for people who work with children. A of these measures concerns the introduction of the Reflection working method and Action Group on Combating Child Abuse (RAAK). A specific point of attention within this method is the development of expertise of professionals and volunteers who work with children throughout the chain.

The third paragraph obliges parties to ensure that persons who are convicted of child sexual abuse, denied access have professions that involve regular contact with children. Parties have the necessary space for their own policy, for example, where the proportionality test and the reintegration of convicts in society. The Convention concludes with this provision closely follows the Dutch system of the declaration regarding the conduct (see, among others, Parliamentary Papers II 2006/07, 30 800 VI, No. 40). In the Netherlands, the declaration of conduct is required by law for a number of professions in which one is involved in the exercise of the profession regularly comes into contact with children and in particular those professions in which there is a relationship of dependency. This applies to the primary and secondary education and childcare. For many other sectors, although there is no legal obligation, there are

Article 6 (Information for children)

This provision obliges parties to inform children about the dangers of sexual exploitation and sexual abuse and children on to make it resilient and protect it in this way. The government policy includes a large number of measures in this area. Among other things, it can be pointed out the measures under the All Opportunities programme for All Children from the Minister for Youth and Family (Parliamentary Papers II, 2006/07, 31 001, no. 5) and the 2007 report by the State Secretary for Health, Welfare and Sport started program Sexual health of youth. Also in the Emancipation Memorandum from the Minister of Education, Culture and Science (Parliamentary Papers II 2007/08, 30 420, no. 50) the importance of increasing resilience is emphasized of girls and boys against (sexual) violence recognized.

Article 7 (Preventive intervention programs and -measures)

Parties are obliged to ensure that persons who fear that they commit any of the crimes set forth in the Convention, access have to intervention measures. Within the framework of regular mental health care, intervention and treatment options exist.

Article 8 (Measures aimed at general public)

This provision obliges parties to conduct public campaigns in which information and education are provided about sexual exploitation and child sexual abuse. The periodic public campaign in the The Action Plan to Combat Child Abuse has a general reach and focuses on both children and people in the area around children. The aim of the campaign is to create broader awareness of the public regarding child abuse and the promotion of alertness to the phenomenon and responsibility for reporting it.

The DigiBewust information campaign specifically points out the dangers that pretend to be children on the Internet and when using other modern means of communication. In order to implement the Treaty, In the coming period we will consider how information about safety will be provided Internet use can be brought to the attention of parents and children more broadly are brought.

Article 9 (Civil society of and children, the private sector, the media, the participation)

This provision calls on parties to protect children, the private sector, the to involve civil society and the media in development and implementation of policies to combat sexual exploitation and child sexual abuse.

In the Netherlands there is broad cooperation in this area between public and private parties. Some examples of this can be mentioned. The information campaign was already mentioned above DigiBewust, a partnership between government and the private sector that, among other things, provides information about responsible use of modern means of communication by children. Furthermore, the private reporting center subsidized by the Ministry of Justice Child pornography plays an important role in preventing and combating child pornography. This reporting center offers an easily accessible option

Furthermore, with regard to combating child pornography, reference can be made to cooperation with internet providers with the aim of blocking sites offering child pornography. This concerns a public-private partnership agreement between the Dutch police and internet providers on blocking websites with child pornography hosted abroad. The first agreements on this subject were made with internet providers in 2007.

In the fight against suppliers and purchasers of child pornography on the Internet, payment transactions that take place can provide a starting point for criminal investigations.

Financial institutions generally recognise that they also have a role to play in combating child pornography on the Internet. A number of financial institutions have united in this spirit in the Financial Coalition Against Child Pornography. In the coming period, further consultations will take place with the financial institutions on the content of their role.

In consultation with the Ministers of Health, Welfare and Sport and for Youth and Family, an approach has been developed together with the Association of Dutch Volunteer Organisations (NOV) to prevent children within volunteer organisations from becoming victims of sexual abuse. The basis for this is a nationally uniform set of rules of conduct that, if complied with, will reduce the risks. In addition to the set of rules of conduct, there will be a protocol with agreements describing how to act if the rules of conduct are violated (see Parliamentary Papers II 2007/08, 31 200 VI, no. 43).

### **2.3 Chapter III (Specialised authorities and coordinating bodies)**

Article 10 (National measures on coordination and cooperation)

Under the first paragraph, parties are obliged to ensure coordination between the various institutions responsible for preventing and combating sexual exploitation and sexual abuse of children.

The vigorous combating of all forms of child abuse is one of the spearheads of the government policy. The coordination of this approach falls under the responsibility of the Ministry of Justice and the program ministry for Youth and Family. A successful approach to child abuse, however, requires efforts from all involved governments, agencies and professionals and close mutual cooperation. The aforementioned Action Plan to tackle child abuse creates the necessary preconditions for this integral and coordinated approach for the coming period.

The second paragraph obliges parties to provide for (a) one or more independent organisations for the promotion and protection of the rights of the child, and (b) mechanisms for investigating the phenomenon of sexual exploitation and sexual abuse of children.

The third paragraph encourages parties to promote cooperation between public and private parties in this area.

With regard to the second and third paragraphs it can be stated that the Dutch government has made money available for information

information on children's rights for children, parents and professionals in the form of general information on children's rights and recent developments in this area.

In general, children and youth are already a focal point in the investigation by the National Ombudsman. Currently, in consultation with the National Ombudsman looked at the possibilities for supervision of to give compliance with children's rights its own recognizable place.

#### **2.4 Chapter IV (Protective measures and assistance to victims)**

Article 11 (Principles)

This provision obliges parties to provide a structure within which victims and their families receive the necessary support.

If the age of the victim cannot be determined immediately, established, this should not be an obstacle to providing protection and care.

Article 12 (Report by the suspicion by sexual exploitation or sexual abuse)

There are no legal restrictions in the Netherlands in the event of a reasonable suspicion of sexual exploitation or sexual abuse this suspicion. Not even for those who are subject to professional secrecy. In the context of the Action Plan to tackle child abuse work is being done to improve signaling and reporting of (suspicions of) child abuse, including sexual exploitation and sexual abuse, by people who work with children: professionals, professionals and volunteers. A number of professional groups make already uses the Child Abuse Reporting Code, or has developed similar reporting codes. For example, the Child Abuse Standard (the reporting code for youth health care) is part of the assessment framework of the health care inspectorate and forms this part of the basic task package. One of the measures from the Action Plan approach to child abuse is that all institutions and professionals who work with children use a clear reporting code. This measure also applies to the volunteer sector. Furthermore, efforts are being made to promote the application of the reporting code.

Article 13 (Guidelines)

In the Netherlands, child abuse can be suspected made from the nationwide network of AMKs (Child Abuse Advisory and Reporting Center). If the AMK receives a report, a investigation will be started into the child's situation. The children's helpline is especially designed to provide help and information to children ([www.kindertelefoon.nl](http://www.kindertelefoon.nl)), a part of the Youth Care Bureau. Both You can obtain confidential help, advice and information by telephone or via the internet are obtained.

Article 14 (Staff On victims)

Reducing the harmful effects of sexual exploitation and sexual abuse is of the utmost importance. The Netherlands has a extensive package of facilities and measures with regard to assistance to victims of sexual offences. Help and care are also available

The third paragraph of this provision specifically focuses on taking measures against the child's parents or guardians at the time that these persons are involved in sexual exploitation or sexual abuse. Parties should provide for the possibility in those circumstances to remove the alleged perpetrator from the child's environment or the child to remove from his family situation. Dutch law provides both civil and criminal possibilities to remove the suspect of sexual abuse from the child's environment. With the bill on a temporary residence ban pending in the Senate (Parliamentary Papers I 2007/08, 30 657), if that bill becomes law, another administrative law possibility will be added. That bill gives the mayor the authority to temporarily impose a restraining order in the event of a threat of domestic violence or (a serious suspicion of) child abuse. There are civil law options to remove the child from the home in the child's best interests and to terminate authority.

## 2.5 Chapter V (Intervention programmes or measures)

Article 15 (General principles)

Article 16 (who ~~Persons~~ <sup>Persons</sup> of ~~intended~~ <sup>intended</sup> for) and -measures

An integrated approach to sexual exploitation and sexual abuse of children also require attention for perpetrators of these serious criminal offences facts. Preventing sexual exploitation and sexual abuse and the reducing the risks of recurrence is, after all, the priority.

Chapter V of the Convention contains provisions targeting perpetrators and thus represents an important added value of the Treaty compared to other international instruments. Article 15 obliges to provide parties with effective treatment options and methods intended for the persons referred to in Article 16. In accordance with Article 16 both suspects and convicted persons must comply with the provisions of the Convention to have access to treatment programs for criminal offenses. In this respect, access to measures is voluntary for suspects and may not have any negative consequences for the right to a fair process, in particular the presumption of innocence.

The Treaty allows parties to define their own programmes and measures.

In the Netherlands, a lot is happening in this area. There is a wide range of treatment programs that aim to prevent recidivism. Outside the judicial process there are treatment options within the framework of regular mental health care. Within the judicial process there is forensic care, which is characterized by treatment by medical experts and is aimed at reducing the risk of recidivism. In the guidance of persons who are receiving forensic care outside the correctional facility and persons who are in a conditional trajectory, probation plays an important role.

It should be emphasised, however, that the provisions of the Treaty are not intended to interfere with national arrangements regarding the treatment of convicts suffering from a defective development or a pathological disorder of the mental faculties. The treaty provisions affect therefore not subject to the Dutch system of provision of services.

proposed, should be fully informed about this. The person concerned must be informed of the possible consequences of refusing to participate in a treatment program. In this context, reference may be made to the possibility in Article 80 of the Code of Criminal Procedure for the suspension of pre-trial detention under conditions. A condition could be that the person concerned is participating in a treatment program.

## 2.6 Chapter VI (Substantive Criminal Law)

### Article 18 (Sexual abuse)

This article requires the criminalization of sexual abuse of children. The article distinguishes two forms of sexual abuse. In the first paragraph, under a, commits sexual acts with a sexually minor child is punishable. This concerns a child who has not reached the legal age of sexual majority under national law. The second paragraph obliges each Member State for the application of the first paragraph, under a, an age for sexual to determine the age of majority. Because the legal age for sexual age of majority in the various member states of the Council of Europe varies widely (from 13 to 17 years), the Treaty leaves Member States free to determine this age yourself. In the first paragraph, under b, the commission of sexual acts with a child (any person under the age of eighteen) is punishable, if this is accompanied by (1) the use of coercion, violence or threats, (2) abuse of trust or authority (including within the family), or (3) abuse of special

vulnerable position of the child or a situation of dependency. The third paragraph contains an exception for situations where sexual contact between young people who mutually agree: this contact remains outside the scope of the Treaty. The intention of the Treaty is not to have normal sexual contact between young people of a similar age or to criminalize an equivalent level of personal development. Not even when it concerns children who are of legal age for sexual intercourse have not yet reached the age of majority. The Convention expressly states does not hinder healthy sexual and personal development of children and the normal sexual experiences that come with them. The Convention maintains the balance between criminal law on the one hand, protection of the child against sexual violations of integrity and on the other hand, protection of the personal privacy of the growing child. The criminalisation of child abuse included in the Convention sexual abuse is therefore in line with the relevant provisions of the morality legislation in the Criminal Code, in particular Articles 242 to 247 of the Dutch Criminal Code. In Dutch morality legislation, a person of legal age from the age of 16. Committing sexual acts with a person from that age are generally not punishable. Committing indecent acts with a person between the ages of 12 and 16 years are punishable. The term "indecent acts" is understood to mean: acts of a sexual nature that are contrary to the social-ethical norm. Normal consensual sexual contacts between young peers cannot be classified as such and fall therefore outside the criminal law.

### Article 19 (Criminal offenses with (regarding child) prostitution)

This provision requires the criminalization of a number of intentional acts

using the services of an underage prostitute.

The second paragraph contains a definition of child prostitution. The concept is interpreted to mean that the consideration for sexual intercourse is punishable actions may consist of payment of money, or some other form of reward or compensation or the promise thereof. This may include, for example, also includes the provision of narcotics or the giving of shelter or food. No distinction is made for criminal liability between a consideration provided or promised to the child itself or to a third party.

The conduct described under (1) and (2) is punishable under Article 273f, first paragraph, under 3°, 5°, 6° and 8° of the Criminal Code. The provisions described under (3) conduct is punishable under Articles 247 and 248b of the Dutch Criminal Code.

Article with (Criminal Offences 20 relating to child pornography)

This provision requires the criminalization of all kinds of intentional acts committed acts relating to child pornography. The acts in the first member, under a to e, the conduct mentioned is inspired by Article 9 of the Cybercrime Convention, provided that the a to e criminalised conduct in this Convention do not require the intervention of a computer system. Furthermore, these behaviors in more or less the same words already mentioned in other international instruments, such as the Framework Decision of the Council of the European Union on combating sexual exploitation of children and child pornography and the Optional Protocol on the sale of children, child prostitution and child pornography at the UN Convention on the Rights of the Child. Punishable are (a) the production, (b) the offering, (c) the distribution, (d) the acquisition and (e) the possession of child pornography. All of these behaviors are punishable

stated in article 240b of the Dutch Criminal Code.

However, the Convention adds to the criminalisation of child pornography a new act. Part (f) punishes anyone who consciously through information and communication technology provides access to child pornography. The background to this criminalisation is as follows. The Convention explicitly takes into account developments in information and communication technology and the new opportunities for abuse that are offered by this. In this In this connection, the treaty drafters, on the initiative of the Netherlands, asked the question consider whether the criminalization of "possession" of child pornography is still is sufficiently tailored to modern methods of internet use to gain access to child pornography without actually owning the material to store on your own computer. After all, the concept of "possession" has traditionally a physical connotation. For that reason the Convention provides for the aforementioned extension of the criminalization. This criminalization would criminal acts involving child pornography that can be intercepted in the absence of downloaded material on the computer may not be subject to the criminalization of "possession" are brought. In particular, this may include persons who obtain access to child pornography for a fee, but view the punishable images only in "real time". The extension included in subparagraph (f) is optional. In accordance with the fourth paragraph, Member States may, if necessary, make a reservation to this provision make. The government intends to amend Article 240b of the Criminal Code in

The second paragraph contains a definition of child pornography. This definition is virtually identical to the definition of child pornography in the Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The definition expressly includes so-called virtual child pornography. it concerns material that has been produced without direct involvement of a real child. On the occasion of the partial amendment of the In 2002, Article 240b of the Dutch Criminal Code made virtual child pornography punishable.

The third paragraph provides for two exceptions to criminalisation of possession (first paragraph, part a) and production (first paragraph, part e) of child pornography. The first opportunity to make a reservation concerns child pornographic images that be completely virtual. The starting point for the criminalization of virtual child pornography in article 240b of the Dutch Criminal Code is a broad criminal protection of children against sexual exploitation and sexual abuse. That broad scope of protection is the starting point for assessing whether in the in the case of virtual images, a criminal offence is involved. Under certain circumstances, images that are not clearly lifelike may also fall within the scope of Article 240b of the Dutch Criminal Code (cf. District Court 's-Hertogenbosch, 4 February 2008, LJN: BC3225). The Netherlands will respond to this then make no reservations. The second possibility for making a reservation concerns images in which sexually mature persons are below the age of 18 years are involved who have consented to the production and have the material in their possession exclusively for their own use. Strictly speaking, in that case there is a criminal production or criminal possession of child pornography. Apart from the fact that under those circumstances a suspicion will not easily arise, it offers expediency principle the possibility to refrain from prosecution. The making a reservation is not necessary.

Article 21 Facts relating to the participation in pornographic performances  
On

child

This provision requires the criminalization of a number of intentional acts committed acts concerning the appearance of children in pornographic representations. The provision is aimed at both the person who recruits a child for such a performance (first paragraph, part a) or forces participation (first paragraph, part b), if the person who consciously participates such performances are present (first paragraph, part c). All these acts are punishable under Articles 248c and 273f of the Criminal Code. Of the the second paragraph provides for the possibility of making reservations will therefore not be used by the Netherlands.

Article 22 (The corruption of children)

This provision requires that the intentional act of allowing a sexually abused minor child to witness sexual abuse or sexual acts for sexual purposes. Not punishable requires the child to participate in the sexual acts. This criminalization is new compared to the existing international instruments and aims to protect the child from harmful influences on personal and sexual development. In particular it concerns behaviors that are aimed at making a child susceptible

Article 23 (Approach by children for sexual purposes)

Article 23 requires the criminalisation of the phenomenon of "grooming". This provision is new in the international context and is one of the key elements of added value compared to the existing international instruments. It is a response to a new form of abuse offered by the new communication possibilities.

The Convention defines "grooming" in short as the act carried out by a approach and seduce an adult person on internet sites or chat rooms of a sexually minor child with the ultimate goal of committing sexual abuse with that minor. For criminal liability it is required that the perpetrator's behavior materializes into a proposal for a meeting with the child followed by a concrete action aimed at realizing that meeting. These actions signify the stability of the intention to commit sexual abuse. The intention of a approaching and communicating with a child exclusively via the Internet, regardless of the intention and content of the communication, falls outside the scope of the criminal offence.

Under Article 248a of the Dutch Criminal Code, criminal prosecution may be initiated in certain cases action is taken against "grooming". The scope of that article is however, not equal to the criminalisation included in the Convention. implementation of the Convention and for the purpose of effective protection of children against such conduct, provision shall be made for a separate criminalisation in the Criminal Code. The legislation to this end is included in the bill implementing the Convention.

Article 24 (Complicity or incitement and attempt)

Attempting to commit crimes, complicity therein and the provoking a criminal offense is punishable in the Netherlands (Articles 45, 46 and 48 Sr).

Article 25 (Jurisdiction)

The first paragraph requires the establishment of jurisdiction when the fact its own territory or on board its own ship or aircraft committed, or when the act was committed by one of its own subjects or resident (parts a to e). Dutch criminal law has a broad jurisdictional regime with relating to sexual offences committed against minors. In the establishment of jurisdiction to which parts a to c require, provided for in Articles 2 and 3 of the Criminal Code. Articles 5 and 5a of the Criminal Code establish jurisdiction for sexual offences committed by Dutch nationals and Dutch residents outside the Netherlands against minors. The requirement of Double criminality does not apply to these crimes. For these crimes jurisdiction exists, even if the fact would be according to the law of the place of the crime are not punishable. The Netherlands thus complies with the jurisdiction provisions included in the Convention, which are primarily aimed at combating of sex tourism.

The second paragraph suggests that parties consider establishing jurisdiction about facts committed abroad against its own subjects and residents. It is an incentive, not an obligation. The Netherlands does not have

criminal offences described the complaint requirement does not apply as a condition for detection and prosecution.

The seventh paragraph, which obliges parties to establish jurisdiction for the case where an offender is present on its territory and extradition of he is refused on the grounds that he is a national of the requested State is not relevant for the Netherlands because in the Netherlands the circumstance that the act was committed by one of its own nationals, extradition need not stand in the way. Moreover, Dutch criminal law, as indicated above, already has as a starting point that Dutch citizens can be prosecuted if they practice foreign having committed a sexual offense against a minor. The eighth paragraph requires the parties to consult with each other when more than one party claims jurisdiction. Under paragraph 9, the parties are free to establish other forms of jurisdiction in addition to the treaty obligations regarding jurisdiction. to establish jurisdiction.

Article 26 (Liability by legal entities)

This provision requires the establishment of liability of legal persons for criminal offences committed by a manager within the legal entity and which are to the benefit of the legal entity committed.

Article 51 of the Dutch Criminal Code provides for criminal liability of legal persons sons.

Article 27 (Sanctions and measures)

The first paragraph requires that effective, proportionate and dissuasive penalties be imposed on natural persons, whereby account is taken of the seriousness of the facts. These penalties should to include custodial sentences that allow extradition.

The second paragraph requires effective, proportionate and dissuasive penalties for legal persons, including criminal or non-criminal fines. In addition, the article lists a number of possible measures.

The third paragraph obliges parties to provide for a number of measures. This concerns seizure and confiscation (part a) and the possibility of confiscating properties that have been used to commit criminal offences, to close temporarily or permanently, or to temporarily or permanently detain the perpetrator prohibit the person from carrying out the activity in which he committed the criminal offence committed (part b).

Dutch law provides for these penalties, sanctions and measures. Article 28, first paragraph, under 5°, of the Dutch Criminal Code provides the judge with the right to in certain cases the possibility of punishing the guilty party as an additional punishment to deprive the offender of the right to practice certain professions. In the event of a conviction for a sexual offence, the judge may deprive the offender of the right to practice certain professions. the profession in which the crime was committed (Article 251 of the Criminal Code). As regards the measures against legal persons referred to in the Treaty, it should be noted that legal persons whose activity or purpose is contrary to is in conflict with public order at the request of the Public Prosecution Service may be declared prohibited and dissolved by the court (Article 2:20 BW).

With regard to the penalties for child pornography, mentions that in 2007 the Public Prosecution Service tightened up its criminal prosecution policy with the Child Pornography Directive (2007, 79).

must be taken into account by the court when determining of the penalty to be imposed for the offences defined in the Convention facts. In the Dutch system of statutory maximum sentences, the idea that these maximums give the judge room to take into account taking into account aggravating circumstances. Furthermore, article 273f, third to seventh paragraph, Article 248 and Article 43 of the Criminal Code explicitly increased penalties for a number of the circumstances mentioned in Article 29.

#### Article 29 (Previous convictions)

Under this provision, parties must provide for the possibility that when imposing a penalty, any possible consequences are taken into account previous irrevocable convictions in respect of similar facts imposed in another Member State.

The Dutch court is free to take into account final convictions pronounced in another contracting party.

It is worth noting that in the European Union political agreement a framework decision has been reached obliging Member States to provide for that a final conviction pronounced in another Member State may have consequences equivalent to those consequences that may be associated with a previous conviction in the country itself. It is expected that this framework decision will be adopted shortly be formally established.

### 2.7 Chapter VII (Investigation, prosecution and procedural law)

#### Article 30 (Principles)

Article 30 sets out a number of general principles for the treatment of children who are victims of sexual exploitation or sexual abuse. Parties must take measures to ensure that the rights and interests of children who are victims of sexual exploitation or sexual abuse, during the investigation and the criminal proceedings are observed. These measures are aimed at to prevent secondary victimization. The responsibility of the government to maintain the law and order obliges the government to take into account the victims of crime, both in as outside the criminal process. This is especially true where vulnerable victims of very serious crimes are concerned, such as children who are victims become victims of sexual exploitation or sexual abuse.

The fourth paragraph expressly states that the measures that are taken to serve the interests of the victim, not may undermine the requirements of a fair trial as laid down in Article 6 ECHR.

The fifth paragraph obliges parties to guarantee the possibility of effective investigation and, where necessary, to provide for the possibility of using special investigative resources. The Netherlands has a active investigation and prosecution policy. The Child Pornography Directive (Stcr. 2007, 162) includes a regulation for the investigation and prosecution of child pornography, with special attention to detection of child pornography on the internet. An effective criminal approach of, for example, child pornography on the Internet, given the rapid changes on the internet and the new possibilities for abuse of that medium, to regularly test whether the existing possibilities for

Criminal Code, Code of Criminal Procedure and some related laws in connection with the criminalization of participating and cooperate in training for terrorism, expand the possibilities for dismissal from the profession as an additional punishment and some other amendments (Parliamentary Papers II 2007/08, 31 386, no. 2), which include: an extension of the criminal law powers to investigate and prosecution of child pornography has been included.

Furthermore, the fifth paragraph obliges parties to focus on identification of victims of child pornography. It is of the utmost importance to identify victims who appear in child pornography material in order to prevent the abuse from continuing. Identifying of the victims and the suspects who abuse these victims, is the main driver for child pornography investigations. With the advent of the Internet, child pornography spreads more easily across national borders. The worldwide use of the Internet requires also an international approach and coordination of child pornography and the identification of victims and perpetrators. The National Police Agency (KLPD) manages the national child pornography database. Interpol manages the international database of child pornography, which contains all images are included, the victims and perpetrators of which have been identified. Information is exchanged between the KLPD and Interpol about victims and perpetrators on seized material. The Netherlands will continue to actively support Interpol's efforts in this area in the coming years.

#### Article 31 (General protective measures)

This article obliges parties to take a large number of measures to protect the rights of victims during the investigation and during the criminal proceedings.

The Victim Care Directive (. 2004, 80) sets ~~out~~ principles for the police and the public prosecutor's office regarding the treatment of victims. Furthermore, this instruction contains regulations with regarding the provision of information to the victim about the course of the criminal proceedings. The police and the public prosecutor's office Instructions for the investigation and prosecution of sexual offences abuse (2005, ~~St~~) contains extensive regulations regarding to the investigation and prosecution of sexual abuse in general and in dependent relationships and contains rules for the treatment of victims of sexual crimes.

Dutch criminal procedural law contains provisions for victims which can also be used for victims of sexual exploitation and sexual abuse. The bill pending in the Senate strengthening the position of victims in criminal proceedings (Parliamentary Papers I 2007/08, 30 143) aims to further strengthen the position of the victim in criminal proceedings. improve. In anticipation of this bill, a number of a number of additional practical measures have been initiated. These measures are set out in the plan "Victim-centric" (Parliamentary Papers II 2006/07, 31 101, no. 1).

In the Netherlands, witnesses enjoy criminal protection on the basis of Article 285a of the Criminal Code and criminal protection in Articles 226a et seq. of the Criminal Code regarding threatened witnesses. In the Netherlands, the KLPD has a department witness protection charged with carrying out measures to protection of witnesses and their families. The decision to provide special measures to be taken for the benefit of witnesses are taken by the College of Attorneys General.

to make the fact known.

#### Article 32 (Setting of the procedure)

Under this provision, Parties may initiate criminal investigations or prosecutions in respect of any of the offences specified in the Treaty not make criminal offences dependent on a report or complaint from the victim. For the offences defined in the Convention, the following applies: The Netherlands does not require a complaint as a condition for investigation and prosecution.

#### Article 33 (Limitation period)

This provision obliges the parties to comply with the provisions of Articles 18, 19, first paragraph, parts a and b, and 21, first paragraph, parts a and b, to provide for a limitation period for the criminal offences described such a duration that it is possible to institute proceedings even after the victim has reached the age of majority.

Research shows that victims of sexual exploitation or sexual abuse takes a long time to recover from in their early childhood to process trauma. This provision aims to give the victim sufficient time to give to think as an adult about what is his or her affected and become aware of the possibility of doing of notification. Dutch criminal law stipulates that with regard to For sexual offences committed against children, the limitation period begins when the victim reaches the age of eighteen. The statute of limitations for sexual offenses committed against minors is at least twelve years.

#### Article 34 (Research)

In accordance with this provision, parties must provide for specialized personnel for the detection and prosecution of sexual exploitation and sexual abuse.

Within the Public Prosecution Service, each district court has a the public prosecutor's office has a contact officer in the field of morals matters designated. This public prosecutor or advocate general has relevant expertise and experience. The contact officers are nationally organized in the Public Prosecution Service platform morals, in which, among other things, developments in case law and policy are discussed. Management takes place place by the Attorney General responsible for the portfolio morals. In the context of the training of employees within the public prosecutor's office, morals has been designated as a specialism, with associated training course.

Investigation of sexual offences is carried out by specialised detectives. A certification programme is provided within the police training with special courses to promote expertise in the field of sexual offences. Certified detectives are part of the morals departments in the police regions and support, where possible, the employees of basic police care.

A central role in the coordination of (inter)national In the Netherlands, detection is assigned to the Product Team Combating Child Pornography at the KLPD. This product team has also been set up as a knowledge and expertise centre for the entire Dutch police force. In the An additional package of measures will be implemented in the near future to provide expertise and capacity to combat cybercrime at both the police and the public prosecutor's office is structurally

First place will be the Rotterdam Regional Investigation Team (BRT) start research into child pornography. Research is currently underway child pornography at national or regional level. The BRT will focus on matters that require too much capacity at regional level, but also do not lend themselves well to the national level. At the BRT can benefit from the broad knowledge and technology available within the police are brought together and innovative insights can be tried out. Experiences of the BRT will be shared with the regional police forces and the KLPD. Secondly, a start will be made with a broad national improvement trajectory under the active management of a national project team. This process must include a monitoring function developed. Furthermore, in addition to research into the nature, scope and developments, there is explicit attention for identifying and further disseminating of so-called best practices (see also Parliamentary Papers II 2007/08, 31 200 VI, no. 146).

**Article 35** (The interrogation of children)

This provision concerns the questioning of children as witnesses in criminal proceedings. Parties are obliged to take a number of measures taking into account the particularly vulnerable position of a child as a witness in a criminal case. The Instruction for the investigation and prosecution of sexual abuse (2005, 17) contains special regulations on the hearing of victims of sexual offences. According to the directive, a victim or witness of a sexual offence between the ages of four and twelve or an older person with a developmental delay, heard according to the appendix to the instruction attached Protocol studio interrogations. That protocol states described in detail where, by whom and in what way such a interrogation must take place.

In accordance with the second paragraph, parties are obliged to provide the opportunity provide for the questioning of minor victims or children who act as a witness, be recorded on video. The video recordings must be able to be introduced as evidence in a criminal case. Dutch legislation and regulations provide for this possibility.

**Article 36** (Criminal proceedings)

In accordance with the first paragraph of this provision, parties must provide for training opportunities in the field of children's rights for legal professionals involved in criminal proceedings. In the Netherlands, these training opportunities are sufficiently available. For example, a basic and advanced course on morality legislation is part of it of the course and training offer of the SSR, the study center for the judicial organization.

Under the second paragraph, parties are obliged to take two specific measures relating to criminal proceedings: (a) the possibility of holding the case behind closed doors and (b) the possibility of hearing the victim in court without to be present there yourself. Dutch criminal procedural law provides for the possibility of hearing the case behind closed doors (Article 269 of the Code of Criminal Procedure) and questioning witnesses by video conference (Article 131a of the Code of Criminal Procedure).

This provision obliges parties to prevent and prosecute sexual exploitation and sexual abuse of children DNA profile of those who have been convicted for one of the crimes described in the treaty criminal offences have been convicted, to be recorded. The parties must also provide the ability to share this data with each other. Based on the DNA Testing of Convicted Persons Act (. 2004, 465) Stb and the Decree of 10 December 2007 amending the list of violent and sexual crimes to which the DNA Research Act applies applies to convicted persons (. 2007, 513), §1b convicted of an offence as described in Articles 240b, 242 to 247, 248a, 248b and 273f Sr cell material taken from for the purpose of determining his or her DNA profile and processing it in a DNA database. In order to implement the Treaty, Article 248c of the Criminal Code will and the criminal offences provided for in the implementing legislation also include this arrangement will be brought. The exchange of DNA data can take place in the context of international legal assistance.

## 2.9 Chapter IX (International cooperation)

Article 38 (General principles of and measures with regard to international cooperation)

The first paragraph of this provision obliges parties to act as much and as widely to work together as possible in preventing and combating sexual exploitation and sexual abuse of children, protecting and providing assistance to victims, and the investigation and proceedings into the offences defined in the Convention.

The second paragraph obliges parties to provide for the possibility of a victim to report a crime in his own country covered by the Convention specified criminal offence committed in the territory of another Member State. Dutch law provides for this possibility.

The third paragraph provides that, if a Member State acknowledges the existence of a treaty basis as a condition for granting mutual legal assistance or the granting of a request for extradition, the Convention may be regarded as a basis for this by the parties. In order to implement this provision, the Treaty will be amended in Article 51a of the Extradition Act to be included.

The fourth paragraph contains an encouragement to parties to integrate, where possible, the prevention and combating of sexual exploitation and sexual abuse in development cooperation with third countries. The Netherlands will set up a project in the context of development cooperation Cambodia which will provide assistance to the authorities to prevent and combating sexual exploitation and sexual abuse (see also Parliamentary Papers II 2007/08, 31 200 VI, no. 146). This will be done in conjunction with sought in the work of non-governmental organizations.

Article 40 (Other representatives)  
Article 41 (Taken the Committee the Parties)

It is important that an effective monitoring mechanism exists to supervise the proper implementation of this comprehensive Treaty. In order to For this reason, the Convention provides for a Committee of the Parties composed of representatives of the Parties to the Convention. The Committee of the Parties shall meet for the first time when ten States have ratified the Treaty.

In addition to representatives of the Parties to the Treaty, a number of representatives of relevant parts of the Council of Europe to be part of the Committee of the Parties. Furthermore, is it possible to appoint representatives from society? to allow civil society to participate as observers in the Committee of the Parties.

The Committee of the Parties shall monitor the implementation of the Convention and has a facilitating role when it comes to exchanging information, identifying best practices and monitoring relevant legal, policy and technological developments.

## 2.11 Chapter XI (Relationship with other international instruments)

Article 42 (Ratio the Convention on the Rights of the Child to and It Optional Protocol thereto on the sale of child pornography) by children, child prostitution and

This article explicitly establishes the relationship with the UN Convention on the rights of the child and the accompanying Optional Protocol on the sale of children, child prostitution and child pornography. The Convention does not in any way detract from those instruments, but aims to improve the protection provided therein and the standards established to develop further.

Article 43 (Ratio other international instruments)

This article regulates the relationship with other international instruments. This is a common provision, which is also included in other treaties of the Council of Europe, most recently in the Council Treaty of Europe on combating trafficking in human beings and the 16 May Council of Europe Convention on the Elimination of Discrimination against Human Rights, concluded in Warsaw in 2005 prevention of terrorism (2006, 34). Trb.

The third paragraph contains the so-called disconnection clause and is specifically aimed at regulating the relationship between the Council of Europe and the European Union and the European Community. Parties that are also members of the European Union, apply in their mutual relations the rules of the European Community and the European Union to the extent that such rules shall apply in the specific area concerned, without prejudice to the object and purpose of the Treaty and without prejudice to the its full application in relation to other parties.

## 2.12 Chapter XII (Amendments to the Treaty)

Article 44 (Changes)

This provision provides for the assessment and consideration of proposals for amendments to the Treaty.

Article 46 (Accession to the Treaty)  
Article 47 (Territorial application)  
Article 48  
(Reserved)  
(Cancelled Article)

The Treaty also provides for signature and ratification/acceptance/approval by non-members of the Council of Europe which have participated in its elaboration and by the European Community.

Accession is subject to unanimous consent by the parties also possible for non-members who have not participated in the drafting of the Treaty.

The Treaty will enter into force three months after five signatories of which at least three member states of the Council of Europe, the Convention have ratified. Currently (May 2008) 28 Member States have ratified

Treaty signed and no state has yet ratified the Treaty.

These final provisions are customary and do not require further explanation. explanation, with the exception of Article 48 on reservations. According to Article 48, no reservations may be made, with the exception of the possibilities for making a reservation in which

explicitly provided for in the Treaty. The Netherlands will, as indicated earlier in this explanatory memorandum, not make use of these possibilities.

The Minister of Justice,  
EMH Hirsch Ballin

The Minister of Foreign Affairs,  
MJM Verhagen

The Minister for Youth and Family,  
A. Rouvoet



Doc. 13065 06

December 2012

## Serious violation of the Lanzarote Convention by the Netherlands

**Written question no. 621 to the Committee of Ministers** by Mr Luca

VOLONTÈ, Italy, Group of the European People's Party

In 2008 and 2010, two young Turkish men pressed criminal charges against the recently retired Secretary General of the Ministry of Justice in the Netherlands, Mr JD. The men claim that they and numerous other Turkish boys were raped and sexually abused by JD when they were only 12 and 14 years old. Despite an overwhelming number of available primary witnesses, the claims of these Turkish men never led to an official criminal investigation as defined in the Dutch Code of Criminal Procedure. Only a so-called "exploratory" investigation was conducted in the Netherlands, while JD remained in office and in the position to easily influence the prosecution and police.

Recently, the two men lodged an appeal to the High Court in the Hague, calling for the indictment of JD. They claim that the refusal of the Dutch National Public Prosecution Service's to investigate their claim is in violation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "Lanzarote Convention"). Since their first reports, the men have been repeatedly harassed and seriously mistreated in Turkey to make them drop the charges against JD.

This was not the first time that complaints of child abuse against this senior civil servant were not properly investigated in the Netherlands and that the victims were intimidated.<sup>1</sup>

The Netherlands has signed and ratified the Lanzarote Convention which stipulates that victims shall be protected from intimidation and their accusations treated as priority and investigated even if the victim withdraws his or her statement.

Mr Volontè,

To ask the Committee of Ministers

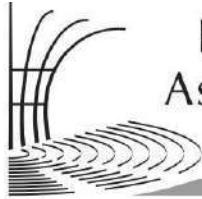
- Does it agree that the Netherlands has seriously violated its obligation to implement the Lanzarote Convention with the continuous refusal to initiate official inquiries into the numerous charges of child abuse against this senior Dutch official? Does it agree that this is scandalous, especially in view of the influential position of the accused person?
  
- Does it agree that an impartial investigation with international expertise must be conducted in this particular case?

---

1. In 1998, an Amsterdam police investigation was conducted into a paedophile network of influential Dutch customers of brothels with underage boys: the Rolodex case. The investigation targeted high-ranking Dutch officials and politicians suspected of abusing young boys in Amsterdam brothels. A Dutch victim was one of the key witnesses in that investigation. And one of the suspects in that investigation was Mr JD. But according to leading investigators in that case, as soon as JD became a person of interest in the case, the investigation was closed. The key witness claims someone threatened to shoot him.

In 2003, another Dutch victim claimed to have been sexually abused as a minor by JD. This victim withdrew his charges however after being interrogated by the Dutch police. He was subsequently convicted of making false declarations. To this day, however, also this victim insists that he was sexually abused by JD.

- Is it willing to ask the Dutch authorities to launch an impartial investigation with independent investigators from different countries?



Doc. 13144  
18 March 2013

## Serious violation of the Lanzarote Convention by the Netherlands

**Reply to Written question1:** Written question No. 621 (Doc. 13065)  
Committee of Ministers

1. In reply to the Honorable Parliamentarian's Written Question, the Committee of Ministers observes that according to information received from the Dutch authorities, the Netherlands considers that it has properly investigated the case in question. The case is currently pending before the Hague Court of Appeal. The Dutch Government underlines that combating sexual exploitation of children is a priority and that it has ratified and is implementing the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ("Lanzarote Convention", CETS No. 201).
2. The Committee of Ministers wishes to inform the Honorable Parliamentarian that it is not part of the monitoring procedure provided for by the Lanzarote Convention. This is the mandate of the Committee of the Parties ("Lanzarote Committee"), composed of representatives of the Parties to the Convention, including representatives of the Parties that may accede to the Convention under Articles 45 and 46 (Chapter X of the Convention), and in which the Parliamentary Assembly has a representative. Thus, the Committee of Ministers as such is not in a position to answer to questions concerning the effective implementation of the Convention.
3. Finally, the Committee of Ministers reiterates its strong support for the Lanzarote Convention as a major instrument to combat sexual abuse and sexual exploitation of children. The Committee of Ministers encourages all member States that have not yet done so to ratify the Convention as soon as possible.

---

1. Adopted at the 1165th meeting of the Ministers' Deputies (13 March 2013).









# Lanzarote Convention

Dutch State Sexual abuse against children



To:

**Council of Europe**

Children's Rights Division

**Lanzarote Committee**

F-67075 STRASBOURG Cedex

FRANCE

image photo cover by Freepik

APPLICANT /REQUESTOR

Mrs. Yvonne Brinkerink



## HOUSE OF REPRESENTATIVES

### STATES - GENERAL

#### INFORMATION SYSTEM

All incoming documents, including letters from citizens and organisations, are included in an information system accessible to all members of parliament and their staff. We assume that you have no objection to this, because you have drawn the attention of parliament with your letter. You may assume that the members of parliament and staff will handle your letter with care. However, if you object to the inclusion of your letter, we request that you inform us immediately, stating the above reference. Your letter will then be removed from the information system. This does mean that the House of Representatives will not process your letter any further.

Letters from social organizations *and* companies are also made available for inspection by the parliamentary press. If you object to inspection of your letter by the parliamentary press, you can send an email to the Communications Department, [persvoorlichting@tweedekamer.nl](mailto:persvoorlichting@tweedekamer.nl), stating the above reference number.

---

Yours sincerely,

House of Representatives of the States General  
Plenary Secretariat/Legislation Office



Aan:

Tweede Kamer der Staten-Generaal Voorzitter  
Martin Bosma  
Postbus: 20018  
2500EA, Den Haag

Breda/ datum: *4 APRIL 2025*

Betreft:

- Verzoek om strafvervolging (Art. 119 Gw)
- Ambtsmisdrijven en ambtsovertredingen begaan door ministers, staatssecretarissen en leden van de Staten-Generaal.

Op grond van art. 119 Grondwet en art. 76 RO neemt de Hoge Raad, ook na hun aftreden, in eerste instantie en tevens in hoogste ressort kennis van ambtsmisdrijven en ambtsovertredingen begaan door ministers, staatssecretarissen en leden van de Staten-Generaal. De procedure is geregeld in art. 483 Sv in verbinding met de art. 4 - 19 van de nog steeds geldende Wet van 22 april 1855, Stb. 33, houdende regeling der verantwoordelijkheid van de hoofden der Ministeriële Departementen. Een vervolging van een minister ter zake van ambtsdelicten als bedoeld in art. 119 Grondwet en art. 76 RO is slechts mogelijk nadat daartoe last is gegeven bij Koninklijk Besluit of bij besluit van de Tweede Kamer der Staten-Generaal. De burgers in Nederland -individueel of in groepsverband- mogen hun volksvertegenwoordiging een brief sturen om last te geven tot vervolging Art.119 GW. Dat kunnen ze doen wanneer zij vinden dat de leden van de Tweede Kamer deze last wel had moeten geven maar de Tweede Kamer niet op eigen initiatief -met minimaal 5 kamerleden- dergelijke last tot vervolging heeft ingezet. Danwel door hoofdelijke stemming.

Het plegen van strafbare feiten en medeplegen -handelen of nalaten- begaan door ministers, staatssecretarissen en leden van de Staten-Generaal, Artikel 44Sr.

\*(aanhechting zwart-wit kopie notariële akte dd. 17 mei 2013, vastlegging verklaring, repertoriumnummer: 20.212, zaaknummer: 2130517/XS, verleend voor mr. Alexander Stuijt notaris te Haarlem.) indien nodig door de notaris een afschrift af te geven. [Artikel 151 Rv waar dwingend bewijs is geregeld. Bij dwingend bewijs is de rechter verplicht om de inhoud van de authentieke akte als waar aan te merken en verplicht is bewijskracht te erkennen.]

Deelname aan een of meer vermeende strafbare feiten onder de publieksrechtelijke rechtspersoon en onder regie van de Staat der Nederlanden. (1). Joris Demmink, beschuldigingen van kindermisbruik. (2). Ivo Opstelten schending Lanzarote Verdrag, artikel 30 lid 3. (het Verdrag van de Raad van Europa inzake de bescherming van kinderen tegen seksuele uitbuiting en seksueel misbruik (Lanzarote 25 oktober 2007). Kortweg het verdrag van Lanzarote genoemd. [Lanzarote Art.3. elke partij waarborgt dat de onderzoeken en strafrechtelijke procedures prioriteit krijgen en zonder onnodige vertraging worden uitgevoerd.]

Ik verzoek de voorzitter van de Tweede Kamer en middels de griffier uitdrukkelijk deze stukken te registeren volgens het protocol van de Kamer en tevens openbare ter inzage te leggen voor alle kamerleden.

Wij verzoeken u een exemplaar van deze brief te verstrekken aan [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

HOOGAFTEND,  
Naam Verzoeker  
Yvonne Brinkerink

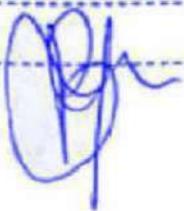
adres: [REDACTED]

**Bijlage(n) producties**

1. handtekening ondertekenaar,
2. lijst van deelnemers aan de vermeende strafbare feiten,
3. zwart-wit kopie notariële akte dd. 17 mei 2013.

Prod 1: ONDERTEKENAAR :

Y. Brinkerink

A handwritten signature in blue ink, appearing to read "Y. Brinkerink". The signature is fluid and cursive, with a large, stylized 'Y' at the beginning.

Prod 2: SUSPECTS ALLEGED CRIMINAL OFFENCES:

1. Joris Demmink, former Secretary General of the Ministry of Justice (since 2010 Ministry of Security and Justice),
2. Ivo Opstelten. Former Minister of Security and Justice.

Prod 3: Black and white copy of notarial deed

**VASTLEGGING VERKLARING**

Repertoriumnummer: 20.212  
(Zaaknummer: 2130517/XS)

Heden, zeventien mei tweeduizend dertien, -----  
verscheen voor mij meester Alexander Stuijt, notaris te Haarlem: -----  
de heer Jacobus Franciscus van Huet, geboren te 's-Gravenhage op zeventien mei --  
negentienhonderd zesenviertig (Pspoort nummer: NM8R7RHR2, uitgegeven te ----  
Velsen op een maart tweeduizend twaalf), gehuwd, wonende te 2071 BP Santpoort--  
Noord, gemeente Velsen, Dinkgrevelaan 20.-----

**Inleiding**-----

De verschenen persoon heeft mij verzocht een door de verschenen persoon ten overstaan  
van mij, notaris, af te leggen verklaring vast te leggen in een notariële akte. -----

**Verklaring**-----

De verschenen persoon heeft de volgende verklaring aan mij afgelegd, waarna ik deze -----  
verklaring direct daaropvolgend heb vastgelegd in deze notariële akte: -----

*"In mei negentienhonderd twee en negentig heb ik vergezeld van meerdere collega's een  
reis naar Londen gemaakt.* -----

*Aldaar logeerden we in de wijk Bayswater, aan de Leinster Square, Westminster Borough.  
Wij hebben daar in die week een aantal gevangenissen bezocht (4) en een dag een bezoek  
gebracht aan het H.Q. van H.M. Prison Service.* -----

*Op dat moment was ik regio-manager van het Gevangeniswezen, regio Noordwest en belast  
met de reorganisatie van de penitentiaire inrichtingen Amsterdam, bekend onder de naam  
Bijlmer Bajes.* -----

*Uit mijn geheugen puttend waren bij deze dienstreis in ieder geval aanwezig:* -----

*Mevrouw Storm van 's-Gravenzande stafmedewerker DG Jeugd en Delinquentenzorg* -----

*Mevrouw R. Verdonk, adjunct-directeur GW,* -----

*De heer Molenkamp, directeur Breda,* -----

*De heer Bosma, directeur,* -----

*De heer Piek, directeur,* -----

*De heer Ab van Maanen, directeur,* -----

*De heer Vroom, directeur (overleden in tweeduizend twaalf)* -----

*De heer van den Brand, directeur,* -----

*De heer Tigges ? (regiomanager)* -----

*De heer K. Boeij? Directeur Noord Holland Noord,* -----

*De heer J.F. van Huet, regiomanager GW.* -----

*Op één der avonden is na het eten aan de bar gesproken over het gedrag van de toenmalige  
DG Vreemdelingenzaken de heer J. Demmink.* -----

*Mevrouw A. Storm van 's-Gravenzande beklaagde zich toen ten overstaan van meerdere --  
collega's over het feit dat zij soms, meestal tegen het weekend, de opdracht kreeg van de --*

heer Demmink om via de telefoon jonge jongens te regelen (waarschijnlijk bij Haagse ---- pokers). Het laat zich raden wat betrokken daar mee uitspookte tegen betaling uiteraard Haar mededelingen aan ons waren een mixture van verontwaardiging en irritatie.----- Als ambtenaren was het het zoveelste verhaal over de heer Demmink zijn escapades en -- bijzondere aandacht voor jonge jongens. Veel hogere ambtenaren moeten hiervan hebben geweten. Niemand durfde hierover openlijk naar buiten te treden. Dat stond gelijk aan ---- ambtelijke zelfdoding plegen naar mening van ondergetekende."

Aflegging belofte -----

Op deze verklaring heeft de verschenen persoon de belofte afgelegd in handen van mij, - notaris. -----

Afschrift akte-----

De verschenen persoon heeft mij tot slot verzocht een of meerdere afschriften van deze akte uitsluitend en alleen op daartoe gedaan verzoek af te geven aan de verschenen ----- persoon, dan wel aan diens erfgenamen. -----

Slot -----

Deze akte is verleden te Haarlem op de datum in het hoofd van deze akte vermeld. De -- verschenen persoon is mij, notaris, bekend. -----

De inhoud van de akte is aan de verschenen persoon opgegeven en toegelicht. De ----- verschenen persoon heeft verklaard op volledige voorlezing van de akte geen prijs te --- stellen, tijdig voor het verlijden van de inhoud van de akte te hebben kennis genomen en met de inhoud in te stemmen. Vervolgens is de akte beperkt voorgelezen en onmiddellijk daarna door de verschenen persoon en mij, notaris, ondertekend. -----

(Volgt ondertekening)

UITGEGEVEN VOOR AFSCHRIFT:



[translation for students black and white copy of a notarial deed]

**RECORDING STATEMENT**

Repertoire number: 20,212 (Case number: 2130517/XS)

Today, May 17, 2013,

appeared before me mr Alexander Stuijt , notary in Haarlem:

Mr. Jacobus Franciscus van Huet nineteen born in The Hague on May 17

hundred and forty six (Passport number: NM8R7RHR2, issued in Velsen on March 1, 2012), married, living at 2071 BP Santpoort

North, municipality of Velsen, Dinkgrevelaan 20.

**Introduction**

The person who appeared has requested me to make a statement by the person who appeared before to make a statement by me, the notary, to be recorded in a notarial deed.

**Declaration**

The person who appeared made the following statement to me, after which I statement immediately thereafter recorded in this notarial deed:

*in may nineteen hundred and ninety-two I accompanied several lectures a statement*

*immediately thereafter recorded in this notarial deed:*

*in may nineteen hundred and ninetytwo I accompanied several college a*

*made a trip to London. There we stayed at the Bayswater neighborhood , on Leinster Square, Westminster Borough . We visited a number of prisons there that week (4) and spent a day visiting the HO of HM Prison Service. At that time I was regional manager of the Prison Service, Northwest region and responsible for the reorganization of the Amsterdam penitentiary institutions,*

*known as Bijlmer Bajes.*

From my memory, the following were present on this business trip:

Mrs. Storm van 's-Gravenzande staff member DG Youth and Offender Care Mrs. R. Verdonk,

Deputy Director GW

Mr. Molenkamp, director Breda, Mr.

Bosma, Director,

Mr. Piek, Director,

Mr. Ab van Maanen, director,

Mr. Vroom, director (died in two thousand and twelve)

Mr. van den Brand, director,

Mr. Tigges? (regional manager)

Mr. K. Boeij ? Director North Holland North, Mr JF van

Huet, regional manager GW

*One evening, after dinner, the behavior of the then DG Immigration Mr. J. Demmink .Mrs. A.*

*Storm from 's-Gravenzande then complained to several college about the fact that she sometimes, usually towards the weekend, received the order from the*

*Mr. Demmink to recruit young boys by phone (probably from pimps in The Hague). It's easy to guess what the person involved did there in return for payment of course. Her communications to us were a mixture of indignation and irritation. As civil servants it was yet another story about Mr Demmink's escapades and special attention to young boys. Many senior officials must have learned from this conscience. No one dared to speak openly about this. That is equal to commit official suicide in the opinion of the undersigned."*

### **Taking the oath**

On this statement the person who appeared has made the promise in my hands, notary.

### **Copy of deed**

Finally, the person who appeared has asked me to provide one or more copies of this to issue the did exclusively and solely upon request to the person appearing person, to we to aliens heirs.

### **Finally**

This deed was executed in Haarlem on the date stated in the heading of this deed .

The person appearing is known to me, the notary.

The contents of the did have been stated and explained to the person who appeared. the person appearing declared that he did not accept any price after the deed was read out in full state that they have taken note of the contents of the deed in good time before it is executed and to agree with the contents. The deed was then read out in a limited manner and immediately subsequently signed by the person appearing and me, the notary

(Signature )  
ISSUED FOR COPY:

#### Verifications of notarial deeds to be carried out by the court

The court is not competent to determine unclear or non-evident factual elements or to pronounce on notarial deeds, (Article 151 paragraph 1 Rv). In the case of authentic deeds, authenticity is assumed. In short, it is assumed that the deed was drawn up by an authorized person and the signature is assumed to be genuine unless proven otherwise, (Article 157 paragraph 1 Rv). Authentic deeds provide against anyone, including third parties, compelling evidence. However, this only applies to what the official declares about his own observations and actions. The statements of the party that are included in an authentic or private deed only provide compelling evidence to the extent that this relates to statements that must be proven by the other party. As long as not expressly disputed, the notarial deed under oath of the notary (or his deputy) is considered the most powerful means of evidence known to Dutch law.

#### Demmink affair Kro Brandpunt

In a report by Aart Zeeman, the current affairs program Brandpunt (KRO) on May 18, 2014, showed a shocking overview of the many unpleasant aspects of the Demmink affair: "For years, he has been dogged by accusations of sexual abuse: former top Justice official Joris Demmink. <https://archive.org/details/demmink-affaire-kro-brandpunt>

The Lanzarote committee may not -legally- interpret the content and text in the authentic deed by the notary. Only literal reading of the notarial deed is allowed.



On September 13, 2014, six former directors of correctional institutions sent a registered letter to the House of Representatives. The former directors want the members of parliament to act with an article 119 GW procedure via the Attorney General of the Supreme Court is pushing for the prosecution of Minister Ivo Opstelten. They accuse Opstelten of obstructing a criminal investigation into Joris Demmink, the former top official of Justice suspected of sexual abuse.

Source: General Daily

7-12-2014



Ivo Opstelten. Joris Demmink's commitment

## Complaint filed against Minister Opstelten in Demmink case

**Six former prison directors have filed a complaint against Minister of Security and Justice Ivo Opstelten. They believe the minister has committed an official misconduct by delaying the investigation into complaints against former top official Joris Demmink instead of taking swift action.**

By: Koen Voskuil 13-09-14, 16:45

Two Turkish men filed charges against then Secretary-General of Justice Joris Demmink in 2008 and 2010. They say they were abused by him as underage boys in Turkey in the mid-1990s.

The Public Prosecution Service is currently conducting a criminal investigation into this case, after these men forced it at the court in Arnhem.

While this criminal investigation is ongoing, Minister of Justice Opstelten has made several public statements about the Demmink case.

In April of this year he told NOS: 'It was nothing, it is nothing and it will be nothing.'

The former prison directors believe that Opstelten is 'intentionally frustrating' the investigation into Demmink with such statements. They sent a ten-page report by registered letter to the National Public Prosecution Service on Friday afternoon. They also want the Lower House to ask the Attorney General of the Supreme Court to prosecute Opstelten.

In a response, Opstelten refers to answers that Prime Minister Mark Rutte previously gave about the statement 'it was nothing, it is nothing and it will be nothing'. Rutte said in May that Opstelten had said that he assumed the innocence of Joris Demmink and had no reason to go back on that. 'The Minister of Security and Justice has also indicated that the Public Prosecution Service is not hindered by this statement that concerns the fact that Mr Demmink has not been convicted to date.'

## AANGIFTE TEGEN DE MINISTER VAN VEILIGHEID EN JUSTITIE

**Aan de Commissie voor de Verzoekschriften en Burgerinitiatieven van de Tweede Kamer van de Staten-Generaal en de Procureur-generaal bij de Hoge Raad**

Ondergetekenden:

1. K. Boeij
2. K. de Graaff
3. J. van Huet
4. B. Molenkamp
5. J.A. Poelmann
6. P.A.W. Scheffelaar Klots

doen aangifte en geven daarom hierbij de Tweede Kamer in overweging op de voet van artikel 119 Grondwet, artikel 76 lid 1 jo. 111 RO en artikel 483 Sv de Procureur-generaal bij de Hoge Raad op te dragen een strafrechtelijke vervolging in te stellen tegen:

### **I. Ivo Willem Opstelten, minister van Veiligheid en Justitie**

ter zake van:

**het in de periode 2010 t/m 2014 plegen van het ambtsmisdrijf strafbaar gesteld in de artikelen 355 lid 4 en 356 Wetboek van Strafrecht, te weten het opzettelijk dan wel door grove schuld nalaten uitvoering te geven aan de bepalingen van de Grondwet, internationaal bindende Verdragen en andere wetten, waarvan de uitvoering tot zijn ministeriële departement behoort, door bij herhaling zowel publiekelijk als tegenover de Tweede kamer der Staten-Generaal uit te spreken dat de diverse beschuldigingen van kindermisbruik aan het adres van zijn (voormalig) secretaris-generaal Joris Demmink iedere grond ontberen.**

### **II. N.N.**

ter zake van:

**het in de periode 2010 t/m 2014 uitlokken van en/of behulpzaam zijn bij of wel middelen verschaffen tot het plegen door de minister van Justitie & Veiligheid van het ambtsmisdrijf strafbaar gesteld in de artikelen 355 lid 4 en 356 Wetboek van Strafrecht, door de minister uit te lokken dan wel door**

**het verschaffen van middelen behulpzaam te zijn bij het doen van uitspraken in de media en in de Tweede kamer der Staten-Generaal als zouden de diverse beschuldigingen van kindermisbruik aan het adres van de (voormalig) secretaris-generaal Joris Demmink iedere grond ontberen.**

**"Quod licet Iovi non licet bovi"**

Ondergetekenden zijn allen werkzaam geweest in een directiefunctie binnen het Gevangeniswezen. Vijf van ons waren directeur van één of meerdere penitentiaire inrichtingen aan wie het beheer van de betrokken inrichtingen, waaronder de bewaking en behandeling van wetsovertreders, was toevertrouwd.

Op grond van onze taak en functie dienden wij te allen tijde boven elke verdenking verheven te zijn; integriteit stond terecht hoog in het vaandel bij het ministerie van Justitie. Bij verdenking van een inbreuk op deze vereiste onkreukbaarheid, zo is onze ervaring, werd vanuit de top van Justitie gereageerd met een gedegen onderzoek en met het straffen van de schuldige. Wij hanteerden zelf binnen de inrichtingen een strikt integriteitsbeleid dat in een aanzienlijk aantal gevallen tot het ontslag van medewerkers heeft geleid.

Wij zijn van mening dat deze eis van onkreukbaarheid aan alle ambtenaren van het ministerie van Veiligheid & Justitie dient te worden gesteld, welke hun positie ook is. Wij wijzen in deze tevens op artikel 162 Wetboek van Strafvordering, dat de verplichting inhoudt van ieder openbaar college en iedere ambtenaar die in de uitoefening van haar of zijn bediening kennis krijgen van een misdrijf met de vervolging waarvan zij niet zijn belast, daarvan onverwijld aangifte te doen bij de bevoegde autoriteiten. Dit artikel geldt in onverkorte vorm voor het hoofd van het ministerie van Veiligheid en Justitie dat bij uitstek is belast met de uitvoering en handhaving de strafwetten. Ook hij dient daarin te handelen zonder aanziens des persoons.

Wij hebben dan ook met stijgende verbazing kennis genomen van de ontwikkelingen in de kwestie Demmink en de uitspraken die minister Opstelten over deze kwestie in de openbaarheid en tegenover de Tweede Kamer der Staten-Generaal heeft gedaan. In plaats van het voortvarend opdracht geven tot een gedegen strafrechtelijk onderzoek, wekt de minister met zijn voorbarige uitspraken dat zijn (voormalige) secretaris-generaal boven alle verdenking verheven is, de indruk het openbaar ministerie te bemmeren in zijn taakuitoefening. Het kennelijk onvermogen van justitie om in deze zaak klarheid te brengen in een groeiende reeks beschuldigingen van kindermisbruik tegen een hoge, thans gewezen justitieambtenaar en mogelijk andere justitieambtenaren vervult ons met plaatsvervangende schaamte voor het ministerie waarvoor dan wel waarmee wij ooit werkten.

Het optreden van de huidige minister van Veiligheid & Justitie in deze kwestie achten wij niet alleen in strijd met zijn ambtsplicht ex artikel 162 Sv, maar tevens in strijd met de strafwet die het intentioneel of door grove schuld nalaten door de minister uitvoering

te geven aan die wetten waarvoor zijn departement verantwoordelijkheid draagt, uitdrukkelijk strafbaar stelt. Het is de reden waarom wij de Tweede Kamer der Staten Generaal verzoeken de Procureur-generaal bij de Hoge Raad te gelasten over te gaan tot vervolging van minister Ivo Willem Opstelten, alsmede van diegenen die hem er toe brachten dit feit te plegen dan wel hem daarbij helpen.

## TOELICHTING:

### Twee Turkse aanklachten

In september 2008 respectievelijk mei 2010 is door twee Turkse jonge mannen aangifte gedaan tegen de toenmalig secretaris-generaal Joris Demmink. Op basis van deze aangifte die ondersteund werd door vijf schriftelijke en op video vastgelegde getuigenverklaringen heeft geen gedegen strafrechtelijk onderzoek plaatsgevonden. Eerst in 2011 is door het openbaar ministerie waarvoor de minister van Veiligheid & Justitie politieke verantwoordelijkheid draagt, besloten tot een 'oriënterend' feitenonderzoek, waarin geen plaats was voor het horen van aangedragen getuigen. Nog voordat dit onderzoek op 2 februari 2012 leidde tot een definitieve beslissing van niet vervolging van de heer Demmink, liet de minister van Veiligheid & Justitie in september 2011 journalisten van het *Algemeen Dagblad* weten dat er "*geen aanleiding was te twijfelen aan de integriteit van zijn secretaris-generaal*" reden waarom hij het 'oriënterend' onderzoek van het openbaar ministerie met vertrouwen tegemoet zag.<sup>1</sup>

Op 2 februari 2012 richtte de minister zich met een brief tot de Tweede Kamer met de opmerking: "*Mijn conclusie is dat van enige grond voor de juistheid van de beschuldigingen tegen de ambtenaar niet is gebleken*".<sup>2</sup>

Na publicaties in het *Algemeen Dagblad* over contacten die Demmink zou hebben gehad met pooters van minderjarige jongens liet minister Opstelten in zijn brieven van 3 en 8 oktober 2012 de Tweede Kamer per omgaande weten 'na raadpleging van de AIVD, de Rijksrecherche en het Openbaar Ministerie' zijn eerdere conclusie van februari 2012 nog steeds te onderschrijven, d.w.z. dat naar zijn mening van enige grond van de juistheid van de beschuldigingen jegens Demmink niet was gebleken. Hij voegde daaraan toe: "*Wat onderzocht moet worden, is onderzocht. De uitkomst daarvan is steeds geweest dat er geen begin van juistheid is gebleken ten aanzien van de geruchten en aantijgingen.*"<sup>3</sup>

Op 7 november 2013 moest de minister op vragen van de leden van de Tweede Kamer Oskamp en Omtzigt toegeven, dat het openbaar ministerie in het 'oriënterende onderzoek' geen navraag had gedaan bij de Turkse autoriteiten of Demmink in de jaren 90

<sup>1</sup> productie 1: AD d.d. 7 september 2011

<sup>2</sup> productie 2: Tweede Kamer, vergaderjaar 2011-2012, 33 000 VI, nr. 80

<sup>3</sup> productie 3: Tweede Kamer, vergaderjaar 2012-2013, 33 400 VI, nr. 3 en 4

Turkije had bezocht, zoals door diverse getuigen was verklaard maar door Demmink zelf was ontkend.<sup>4</sup> Desondanks had de minister zich in antwoord op vragen van dezelfde parlementsleden op 4 december 2012 en 26 februari 2013 zonder enig voorbehoud geschaard achter een brief van 17 augustus 2012 van de Nederlandse ambassadeur in Washington, Rudolf Bekink, waarin wordt vermeld dat "*The prosecution service—established that Mr. Demmink was not in Turkey in the period in question.*"<sup>5</sup>

Deze mededeling van Bekink, gericht aan leden van het Amerikaanse Congres en leden van de U.S. Helsinki Commission, die hun bezorgdheid hadden uitgesproken over het uitblijven van een gedegen Nederlands strafrechtelijk onderzoek naar de beschuldigingen tegen Joris Demmink, was bezijden de waarheid. Het onderzoek in Nederland had slechts geen bevestiging opgeleverd dat Demmink in de jaren 90 in Turkije was geweest terwijl in het onderzoek geen moeite was gedaan op dit punt navraag te doen bij de Turkse autoriteiten. Dat is iets heel anders dan wat de door Opstelten tegenover de Tweede Kamer onderschreven brief van de diplomaat Bekink suggereerde, te weten dat in het onderzoek was vastgesteld dat Demmink in die periode niet in Turkije was geweest.

Vanaf 14 juni 2013 beschikte de minister van Veiligheid & Justitie over een document van een Turkse officier van justitie, gedateerd 22 april 2013, waarin staat vermeld dat onderzoek in Turkije had uitgewezen dat Joris Demmink op 20 juli 1996 Turkije was binnengereisd en dat de Turkse aangevers als pleegdatum juli 1996 hadden genoemd. In zijn beantwoording van de vragen van de parlementsleden Oskamp en Omtzigt op 7 november 2013 noemde de minister dit document van de Turkse officier van justitie authentiek. Desondanks weigerde de minister gevolg te geven aan het verzoek van de Kamerleden om aan de Nederlandse ambassadeur Bekink te vragen zijn foute informatievoorziening aan de Amerikaanse congresleden te corrigeren (zie hiervoor prod 4).

Op 20 januari 2014 oordeelde het Gerechtshof te Arnhem op een klacht van de Turkse aangevers dat uit het door aangevers gepresenteerde materiaal en de verrichte oriënteerende feitenonderzoeken "*voldoende feiten en omstandigheden naar voren zijn gekomen waaruit een redelijk vermoeden van schuld voortvloeit dat beklaagde (Joris Demmink) zich schuldig heeft gemaakt aan de (--) gestelde strafbare feiten.*" Het hof achtte een nader met voldoende waarborgen omkleed strafrechtelijk onderzoek noodzakelijk en beval de vervolging van Demmink.<sup>6</sup> Het openbaar ministerie is dit onderzoek in februari 2014 gestart. Uit dit onderzoek zijn nog geen resultaten bekend, verwacht wordt dat het een jaar in beslag zal nemen.

<sup>4</sup> **productie 4:** Brief d.d. 7 november 2013

<sup>5</sup> **productie 5:** Tweede Kamer, vergaderjaar 2012-2013, Aanhangsel van de Handelingen, nr. 691 en brief van 26 februari 2013, Tweede Kamer, vergaderjaar 2012-2013, Aanhangsel van de Handelingen, nr. 1459

<sup>6</sup> **productie 6:** Arrest d.d. 20 januari 2014 Hof Arnhem

Twee dagen na het arrest van het Gerechtshof te Arnhem liet de minister de Tweede Kamer weten dat hij de vergoeding van de kosten van Demminks strafadvocaat zou beëindigen, maar de kosten rechtsbijstand in de door Demmink tegen het Algemeen Dagblad wegens de publicaties van oktober 2012 aangespannen civielrechtelijke procedure, vanuit het ministerie zou blijven vergoeden.<sup>7</sup>

#### **Het Rolodex onderzoek**

Op 23 december 2013 informeerde mr. H.J. Bolhaar, voorzitter van het College van procureurs-generaal namens het ministerie van veiligheid & Justitie, de advocaat van een Nederlands slachtoffer van kindermisbruik, over het Rolodex onderzoek dat eind jaren 90 plaats vond in het arrondissement Amsterdam. Dit onderzoek naar vermeend seksueel misbruik van jongens beneden de leeftijd van 16 jaar door officieren van justitie en andere hoge justicambtenaren dat plaats vond in 1998 en 1999, leverde volgens hem uiteindelijk geen bewijs op tegen de verdachte personen. De brief met samenvatting schrijft letterlijk: "Zoals ook al eerder gemeld in antwoorden op Kamervragen van 15 juni 2007 is de oud-SG van het ministerie van Veiligheid en Justitie op geen enkele wijze naar voren gekomen, noch is er informatie aangetroffen waaruit blijkt dat hij enige bemoeienis heeft gehad met het onderzoek."<sup>8</sup>

Op 5 maart 2014 legde een indertijd bij het Rolodex onderzoek betrokken CIE-rechercheur een verklaring af die in directe tegenspraak is met deze informatie van het ministerie van Veiligheid & Justitie. Dit gebeurde tegenover de rechter-commissaris van de rechtbank te Utrecht, die deze getuige De Koter onder ede hoorde op verzoek van de Stichting De Roestige Spijker. De getuige verklaarde o.a.:

*"Bij aanvang van het tactisch (Rolodex) onderzoek zijn er door de Rijksrecherche een aantal namen bekend gemaakt van hooggeplaatsten, en daarop diende verder onderzoek plaats te vinden. Dat waren de heren Waabeeke, Woldrik en Holthuijzen (die drie heren waren allen officier van justitie) en de heer Demmink die destijds werkzaam was bij het ministerie (---) Holthuijzen was CIE-officier bij de Rijksrecherche. (---) Als ik over Demmink spreek, bedoel ik de heer Joris Demmink. (onderstreping van indieners dezes)"*<sup>9</sup> Deze CIE-rechercheur verklaarde ook dat het onderzoek 'stuk' ging voordat daadwerkelijk tactisch onderzoek kon plaatsvinden.

Ook de tactisch leider van het Rolodex team, Jaap Hoek, liet op 5 maart 2014 tegenover de rechter-commissaris te Utrecht weten, dat het onderzoek uiteindelijk tot niets had

<sup>7</sup> **productie 6a:** brief van 22 januari 2014 aan de Voorzitter van de Tweede Kamer. Zie ook: <http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2014/01/22/beantwoording-door-minister-opstelten-van-vragen-over-de-vergoeding-van-advocaatkosten-van-een-oud-ambtenaar/antwoorden-kamervragen-over-de-vergoeding-van-advocaatkosten-van-een-oud-ambtenaar.pdf>

<sup>8</sup> **productie 7:** brief d.d. 23 december 2013 aan mr. M.J. de Witte

<sup>9</sup> **productie 8:** proces-verbaal van voorlopig getuigenverhoor van L.G. de Koter d.d. 5 maart 2014, rechtbank Midden-Nederland, zaaknummer: C/16/347668/HA RK 13-200

geleid, omdat er overduidelijk was 'gelekt'. Hoek kon zich de namen van de hooggeplaatste justitieambtenaren tegen wie het onderzoek liep, echter niet meer herinneren.<sup>10</sup>

Nog scherper werd de informatie van mr. Bolhaar tegengesproken door de getuige E.M. Broersma, die op 15 april 2014 door de rechter-commissaris te Utrecht op verzoek van de Stichting de Roestige Spijker onder ede werd gehoord. Broersma werkte eind jaren '90 als commandant van het observatieteam bij de afdeling Terrorisme en Bijzondere taken. Hij kreeg eind 1998 de bijzondere opdracht informatie te verzamelen over vier verdachten, waarnaar de Rijksrecherche op dat moment onderzoek deed. Hij verklaarde: "Een van die verdachten was de heer Demmink. (--) De reden waarom dit onderzoek zo kort liep, was dat de zaak op enig moment stuk was. Ik bedoel daarmee dat er gelekt is naar een van de betrokken verdachten (--) dat betrof de heer Holthuis (--) hoofdofficier van het landelijk parket."<sup>11</sup>

Hetgeen de direct betrokken rechercheurs over het Rolodex onderzoek verklaren is een bevestiging van wat de toenmalig CID-officier van justitie Fred Teeven in 2007 al aangaf over de zaak. De huidige staatssecretaris van Justitie Teeven verklaarde toen onder ede dat het onderzoek indertijd voortijdig door contra-acties kapot was gemaakt: "Het ging om een onderzoek van de Rijksrecherche en de zedenpolitie (--) er is getapt, maar er is verder geen vervolging ingesteld. De hoofdofficier van justitie van Amsterdam was verantwoordelijk en heeft mij verzocht een onderzoek in te stellen. (--) Ik was als CIE-officier van justitie betrokken (--) er is getapt, maar er is verder geen vervolging ingesteld. (--) Op enig moment zijn er contra-acties gekomen (--) Voordat het onderzoek eindigde speelde dit al."<sup>12</sup>

De baas van Fred Teeven was indertijd hoofdofficier van justitie Hans Vrakking. Het Rolodex onderzoek was op zijn initiatief gestart. Ook hij beaamt dat de naam Demmink indertijd was gevallen in het Rolodex onderzoek. Hij vertelde in maart 2014 aan de NRC journalist Haenen dat indertijd bij de BVD belastende informatie binnen kwam over Demmink: "De chauffeur van Demmink, Rob Mostert (--) had tegenover de BVD verteld 'er niet meer tegen te kunnen'. Hij zat ermee dat Demmink in de dienstauto af en toe seks had met jongens. Uiteindelijk werd na overleg met Teeven besloten de informatie over Demmink niet verder te onderzoeken omdat dit buiten het bereik van de Rolodex zaak lag. (--) De naam van Demmink is dus wel degelijk langs gekomen, maar niet verder bekeken (--) En toen gebeurde er iets heel raars. (--) Harry Borghouts belde. Waar ben jij mee bezig, riep hij. Jij bent bezig een van mijn ambtenaren te onderzoeken (--) Demmink. Toen heb ik gezegd: we onderzoeken van alles, maar Demmink maakt geen deel uit van het onderzoek (--) De dag na dit telefoongesprek (--) bleek dat het onder-

<sup>10</sup> **productie 9:** proces-verbaal van voorlopig getuigenverhoor van J. Hoek d.d. 5 maart 2014, rechtbank Midden-Nederland, zaaknummer: C/16/347668/HA RK 13-200

<sup>11</sup> **productie 10:** proces-verbaal van voorlopig getuigenverhoor van E.M. Broersma d.d. 15 april 2014, rechtbank Midden-Nederland, zaaknummer: C/16/347668/HA RK 13-200

<sup>12</sup> **productie 11:** proces-verbaal van verhoor d.d. 12 april 2007 van Fred Teeven achter gesloten deuren, rechtbank Den Haag, parketnr. 09/754023-06

*zoek uitgelekt en dus kapot was. (--) Borghouts zegt dat hij van Demmink hoorde over het Rolodex onderzoek en Demmink zegt het van een of andere hoofdofficier van justitie te hebben gehoord. " <sup>13</sup>*

De interventie door de toenmalig secretaris-generaal van Justitie Borghouts voor zijn ambtenaar Demmink, zoals geschetst door Vrakking, wordt beaamd door de toenmalig voorzitter van het College procureurs-generaal, René Ficq. Ficq leest uit zijn oude aantekeningen: "Deze (Borghouts) was aangesproken door Demmink. Hij had vernomen dat hij voorwerp van onderzoek zou zijn in Amsterdam, alsmede een hoofdofficier van justitie." <sup>14</sup>

### **Reactie minister van Veiligheid & Justitie Ivo Opstelten**

Uit de verklaringen van de in 1998 bij het Rolodex onderzoek betrokken rechercheurs komt een alarmerend beeld naar voren van een strafrechtelijk onderzoek naar mogelijk kindermisbruik van hoge justitieambtenaren, dat voortijdig effectief wordt gefrustreerd door lekken naar en ingrijpen van hoge ambtenaren uit het justitieapparaat. Het gaat hier niet om één zegsman, maar om drie direct betrokken rechercheurs, de Koter, Hoek en Broersma, een betrokken CIE officier van justitie, thans staatssecretaris Veiligheid & Justitie en de verantwoordelijke hoofdofficier van justitie.

De minister van Veiligheid & Justitie, verantwoordelijk voor de juiste uitvoering van de wetten, heeft op grond van deze verklaringen geen enkele actie genomen om in deze kwestie de volledige waarheid boven tafel te krijgen. Erger, minister Opstelten heeft op de afgelegde verklaringen niet dan in afwijzende termen publiekelijk gereageerd.

Na de verklaringen van De Koter, Hoek en Vrakking heeft de minister zich opnieuw tot de Tweede Kamer der Staten-Generaal gewend met het bericht dat het Rolodex onderzoeks dossier opnieuw was bestudeerd door het openbaar ministerie, maar dat opnieuw was vastgesteld dat de oud-secretaris-generaal op geen enkele wijze in dit onderzoek naar voren was gekomen. In de brief wordt met geen woord gerept over het 'lekken' en van hogerhand effectief 'stuk' maken van het onderzoek zoals beschreven door De Koter, Hoek, Teeven en Vrakking en later ook Broersma. <sup>15</sup>

Na de verklaring van oud-rechercheur Broersma dat hij indertijd de opdracht kreeg vier verdachten te volgen waaronder Demmink, reageerde de minister op 15 april 2014 opnieuw in het openbaar. Tegenover diverse media gaf hij opnieuw aan overtuigd te zijn van de onschuld van de oud secretaris-generaal. Aan de NOS liet hij over de onderzoeken naar Demmink weten : "Het was niks, het is niks en het zal niks worden." <sup>16</sup>

<sup>13</sup> productie 12: NRC 22 maart 2014

<sup>14</sup> productie 13: Volkskrant 8 maart 2014

<sup>15</sup> productie 14: Brief d.d. 27 maart 2014 aan de voorzitter van de Tweede Kamer

<sup>16</sup> Zie: <http://www.radio1.nl/item/190683-Opstelten-%20zaak-Demmink%20is%20niks.%20wordt%20niks.html>

### **Frustratie van de wet: schending van artikel 355 lid 4 subsidiair 356 WvS**

De minister van Veiligheid & Justitie is politiek verantwoordelijk voor het functioneren van het openbaar ministerie. De minister kan aanwijzingen geven betreffende de uitvoering van de taken en bevoegdheden van het openbaar ministerie. Deze aanwijzingen kunnen algemeen en bijzonder van aard zijn en ook individuele zaken betreffen (artikel 127 RO). De leden van het openbaar ministerie zijn verplicht de aanwijzingen van de minister op te volgen. Dit impliceert dat ook publieke uitspraken van de minister over individuele zaken, niet zijnde concrete aanwijzingen, invloed zullen hebben op de wijze waarop het openbaar ministerie in die zaken zijn werkzaamheden zal verrichten. Wanneer deze uitspraken gericht zijn op het frustreren van de ten uitvoerlegging van de wet of internationaal bindende verdragen, impliceert dit een strafrechtelijke verantwoordelijkheid van de minister zoals bedoeld in artikel 355 lid 4 WvS.

Het openbaar ministerie is belast met de vervolging van strafbare feiten. Misbruik van jongeren beneden de 16 jaar is strafbaar gesteld in ons Wetboek van Strafrecht. Nederland heeft het Verdrag van Lanzarote (2007) ondertekend. Dit verdrag eist dat de strafrechtelijke onderzoeken en procedures betreffende seksueel kindermisbruik prioriteit krijgen en zonder onnodige vertraging worden uitgevoerd door de lidstaten (artikel 30). Het verplicht de lidstaten bovendien de vervolging van seksueel kindermisbruik niet afhankelijk te stellen van de aangifte of beschuldiging door het slachtoffer (artikel 32).

Nederland is ook lid van het Europees Verdrag tot bescherming van de rechten van de mens (1950). Het Europees hof voor de Rechten van de Mens heeft in een aantal uitspraken duidelijk gemaakt dat seksueel misbruik van kinderen moet worden gekwalificeerd als een schending van de artikelen 3 en 8 van het EVRM: het recht om verschoond te blijven van onmenselijke behandeling en marteling en het recht op familie- en privéleven. De artikelen 3 en 8 impliceren aldus het Europees Hof een positieve verplichting van de Staat om kinderen te beschermen tegen o.a. seksueel misbruik. Hieronder valt een effectief en voortvarend strafrechtelijk onderzoek, onmiddellijk ingesteld na de eerste aangiften.<sup>17</sup> De Hoge Raad erkent deze internationale verplichting explicet.<sup>18</sup>

<sup>17</sup> (EHRM 24 september 2004, M.C. tegen Bulgarije (application no. 39272/98), EHRM 20 maart 2012, C.A.S. en C.S. tegen Roemenië (application no. 26692/05), EHRM 15 augustus 2012, I.G. tegen Moldova (application no. 53519/07) en EHRM 28 Januari 2012, O'Keeffe tegen Ierland, (application no. 35810/09)

<sup>18</sup> Hoge Raad 18 april 2014, **ECLI:NL:HR:2014:948** (OM/Vereniging Martijn), rov 3.11.3 jo. 3.9 in navolging van de A.G. L. Timmerman in zijn conclusie, ECLI:NL:PHR:2013:2379, rov 3.21-3.27: Daarin schrijft Timmermans o.a.: *“Onder art. 3 EVRM is een positieve verplichting aangenomen om preventieve en represieve maatregelen te nemen ter bescherming van kinderen tegen lichamelijke mishandeling wanneer men, bijvoorbeeld naar aanleiding van herhaalde waarschuwingen of gewichtige aanwijzingen, weet of redelijkerwijs had behoren te weten dat het kind ter zake aan een risico werd blootgesteld. Deze rechtspraak is vervolgens toegepast in het kader van seksueel misbruik. In verband met art. 8 EVRM is een positieve verplichting aangenomen om (gepogde) vergrijpen te criminaliseren en op effectieve wijze te onderzoeken en vervolgen, te meer wanneer het lichamelijke en morele welzijn van een kind bedreigd wordt”*

In de kwestie Demmink zijn naar de mening van het Gerechtshof te Arnhem aangiften uit 2008 en 2010 wegens kindermisbruik in Turkije onvoldoende onderzocht. Het hof heeft daarom op 20 januari 2014 het openbaar ministerie bevolen deze aangiften alsnog te onderzoeken. Internationale verdragen vereisen niet alleen een gedegen, maar ook een voortvarende afhandeling van dit soort aangiften. Voor de reeds opgelopen vertraging draagt de minister van Veiligheid & Justitie niet alleen politieke verantwoordelijkheid maar ook strafrechtelijke verantwoordelijkheid. Zijn directe bemoeienis met de kwestie was er vanaf september 2011 immers bij voortdurend opgericht de aangiften tegen Demmink te bagatelliseren en de integriteit van zijn secretaris-generaal bij voorbaat boven alle twijfel te verheffen. Nog in oktober 2013 liet de minister de Tweede Kamer weten dat "*alles was onderzocht*" maar dat er nog "*geen begin van juistheid is gebleken ten aanzien van de geruchten en aantijgingen.*" Met dit handelen heeft de minister de uitvoering van de wet en internationale verplichtingen actief gefrustreerd.

De minister heeft het daarbij niet gelaten. Tijdens het nu lopende door het hof Arnhem bevolen onderzoek heeft hij zich opnieuw uitgelaten over de aanklachten wegens kindermisbruik aan het adres van zijn oud secretaris-generaal. In reactie op een oud-rechercheur die onder ede verklaarde in 1998 de opdracht te hebben gehad met zijn observatieteam Demmink te volgen als verdachte van kindermisbruik, antwoordde de minister van Veiligheid & Justitie publiekelijk: "*het was niks, het is niks en het wordt niks.*" Hij beïnvloedt daarmee opnieuw op ontoelaatbare wijze de leden van het openbaar ministerie die op dit moment bezig zijn het door de rechter opgedragen onderzoek uit te voeren en frustreert daarmee intentioneel de juiste uitvoering van de wet waarvoor zijn ministerie verantwoordelijk is.

Daarnaast draagt de minister de volle politieke verantwoordelijkheid voor het ambtsmisbruik begaan door leden van het openbaar ministerie en het ministerie van Justitie, zoals recent omschreven in de verklaringen van drie oud-rechercheurs, en twee oud-officieren van justitie over de teloorgang van het Rolodex onderzoek. Het van bovenaf frustreren van strafrechtelijk onderzoek naar mogelijk eigen strafbaar handelen: misbruik van jongens jonger dan 16 jaar, moet worden gezien als zeer ernstig strafbaar handelen, dat de integriteit van onze gehele strafrechtspleging raakt. Dit behoort in een naar behoren functionerende rechtsstaat na bekend worden, per onmiddellijk en met alle middelen te worden onderzocht. De verantwoordelijkheid hiervoor ligt bij de minister van Veiligheid & Justitie. Wanneer de minister hierin geen verantwoordelijkheid neemt en erger, de boodschappers van het plaats gevonden kwaad en public laat weten dat er niets aan de hand "*was en is*" frustreert hij intentioneel de uitvoering van de wetten, die aan zijn ministerie is opgedragen. De minister schendt ook hiermee artikel 355 lid 4 WvS.

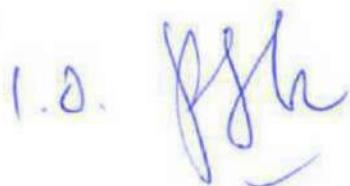
Ondergetekenden verzoeken uw commissie daarom de Tweede Kamer in overweging te geven de procureur-generaal bij de Hoge Raad op te dragen Ivo Opstelten, Minister van Veiligheid en Justitie strafrechtelijk te vervolgen terzake overtreding van artikel 355 lid 4 subsidiair artikel 356 Wetboek van Strafrecht en leggen dit verzoek ter kennisneming neer bij de Procureur-generaal bij de Hoge Raad.

K. Boeij



5 september 2014

K. de Graaff



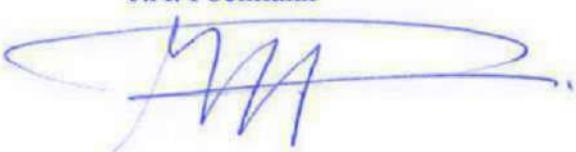
J. van Huet



B. Molenkamp



J.A. Poelmann



P.A.W. Scheffelaar Klots



# House of Representatives of the States General 2

Meeting year 2008–2009

31 808 (R1872)

**Approval of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, concluded in Lanzarote on 25 October 2007 (Trb. 2008, 58)**

No. 3

## EXPLANATORY MEMORANDUM

### 1. Introduction

The advice of the Council of State of the Kingdom is not made public, because it is clearly approving (Article 25 a, fifth paragraph in conjunction with fourth paragraph, under b, of the Council of State Act).

Growing children deserve all of our protection. It is of the utmost importance that children grow up in a safe environment and can develop into adults in a healthy and balanced way.

People who are victims of sexual violence or abuse in their childhood often carry the scars of these traumatic events with them for the rest of their lives. Family, society and government must therefore each make the greatest effort, based on their own responsibility, to protect children from violations of their physical and mental integrity. The protection that the government can offer also includes criminal protection against sexual exploitation and sexual abuse.

Sexual exploitation and sexual abuse of children are a global phenomenon and require a strong approach both nationally and internationally. Sexual exploitation of children is often accompanied by serious and often organised cross-border crime. Developments in technology and on the Internet contribute to child pornography easily spreading across national borders and new forms of abuse emerging. Given this international dimension, preventing and combating sexual exploitation and sexual abuse of children requires intensive and effective international cooperation. To this end, many relevant legal instruments have already been established internationally. Developments in society, such as the increased use of the Internet by both children and perpetrators, pose the challenge for governments to ensure that policy and legislation on preventing and combating sexual exploitation and sexual abuse keep pace with this as much as possible and to adjust or lighten them where necessary. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2008, 58; hereinafter: the Convention), concluded in Lanzarote on 25 October 2007, represents the latest international agreement in this area and should therefore be welcomed. The Cabinet also considers the Convention to be a support for intensifying the fight against sexual exploitation and sexual abuse.

Trb.

The Treaty aims to provide a solid foundation and make a strong contribution to the protection of children from sexual exploitation and sexual abuse. The Convention was developed with great speed, reflecting the importance and urgency that the Council of Europe attaches to rightly attributes to the subject – also in the context of the three-year Council of Europe programme «Building a Europe for and with children» underlined. On –, 25 October 2007, the Convention was opened for signature in Lanzarote. On that occasion, the Convention was signed by the Kingdom of the Netherlands. Currently (May 2008), 28 Member States of the Council of Europe have signed the Convention. The Convention is not yet entered into force.

The Convention is comprehensive and multidisciplinary in nature and, as stated in Article 1, aims to achieve the following: (1) preventing and combating sexual exploitation and sexual abuse of children, (2) protection of the rights of children who are victims of sexual exploitation and sexual abuse and (3) promoting national and international cooperation in the fight against sexual exploitation and child sexual abuse.

The Convention concerns the protection of children against sexual exploitation and sexual abuse in a broad sense and covers a large number of subjects that relate to that protection. In addition to criminal and sanction provisions it concerns preventive and protective measures, procedural provisions, intervention measures, and measures relating have on national coordination and international cooperation.

The Treaty consists of thirteen Chapters: Chapter I (Objectives, principle of non-discrimination and definitions), Chapter II (preventive measures), Chapter III (specialised authorities and coordinating bodies), Chapter IV (protective measures and assistance to victims), Chapter V (intervention programmes or -measures), Chapter VI (substantive criminal law), Chapter VII (investigation, prosecution and procedural law), Chapter VIII (recording and storage of data), Chapter IX (international cooperation), Chapter X (supervisory mechanism), Chapter XI (relationship with other international instruments), Chapter XII (amendments to the Treaty), Chapter XIII (final provisions).

The Treaty is partly based on existing international agreements in this area. In particular, mention may be made of the United Nations on 20 November 1989 in New York Convention on the Rights of the Child (. 1990, Trb 46 and 17) and the Optional Protocol, which was established in New York on 25 May 2000 Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (. 2001, 63 Trb and 130), which was established in New York on November 15, 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing of the United Nations Convention against Transboundary Trafficking organised crime (. 2001, 69 and 2004, 35) and the context of the International Labour Organization on 17 June 1999 in Geneva Convention on the Prohibition and Immediate Removal of action for the elimination of the worst forms of child labour (2001, 69 and 2004, Trb . 35). At the level of the European Union, are referred to as the Framework Decision 2004/68/JHA of the Council of the European Union of 22 December 2003 on combating sexual exploitation of children and child pornography (L 13), Framework Decision 2001/220/JHA of the Council of the European Union of 15 March 2001 on the position of the victim in criminal proceedings (Council PbEG L 82) and the framework of the European Union Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings (L 203) PbEG the Council of Europe

itself has previously provided for binding instruments in related areas with the Convention on Crime Connected with Electronic Networks, concluded in Budapest on 23 November 2001 (Treaty 2002, 18 and 2004, 290; the Cybercrime Convention) and the Council of Europe Convention on Action against Trafficking in Human Beings, concluded in Warsaw on 16 May 2005 (Treaty 2006, 99).

Treaty

The Convention contains duplications with the above-mentioned agreements. However, on a number of points the Convention goes a step further. As a result, it clearly has added value. This applies in particular to a number of new criminal provisions, broad jurisdiction provisions to combat sex tourism and provisions relating to intervention programmes and measures aimed at perpetrators. With regard to the criminal provisions, special attention was paid to whether the ongoing development of technology, the further digitalisation of society and the increasing use of open communication possibilities on the internet require further criminal protection of children against abuse. The new Convention therefore constitutes the most recent representation of the international consensus on the criminal protection of children and fits in with the government's policy in these areas. A number of the criminalisation obligations included in the Convention require implementing legislation in the Netherlands. This legislation is included in the bill to implement the Convention.

Under Article 48 of the Treaty, no reservations may be made to the Treaty, except for those provisions where the Treaty expressly provides for this possibility. The Netherlands intends not to make use of these possibilities.

As regards the relationship between the Treaty and the European Union, it should be noted that the Treaty provides for the possibility of accession by the European Community. No final decision has yet been taken on this matter.

The Convention is accompanied by an explanatory report. This report provides an authentic explanation and justification of the articles in the Convention. It is published on the Council of Europe website (<http://conventions.coe.int/Treaty/EN/Reports/Html/201.htm>).

#### Kingdom position

The Government of the Netherlands Antilles has indicated that it considers it desirable to extend the Convention to its country. The Netherlands Antilles, where human rights are highly regarded, cannot permit the sexual exploitation and sexual abuse of both children and adults on its territory. Such acts are an attack on and constitute an infringement of the honour and human dignity of an individual. Dishonest persons who have a profit motive with such acts and wish to enrich themselves from the suffering of others should also be deprived of this possibility. As regards legislation, Book 2, Title XIV of the current Criminal Code contains a number of penal provisions relating to the sexual exploitation and sexual abuse of children. These provisions will be amended and expanded in Book 2, Title XIII of the new draft Criminal Code. When this amended Criminal Code enters into force, the Convention will not require any further implementing legislation in the area of criminalisation. In addition to the criminalization of the sexual exploitation and sexual abuse of children, the implementation of

the Treaty requires additional policies in both areas which may require implementing legislation.

The Government of Aruba has also indicated that it will be co-applicable to the Treaty to consider desirable for her country. As far as the matter is still not legally regulated, this will be provided for in the new Aruban Criminal Code.

Approval is requested for the entire Kingdom. The Treaty will be ratified for the various countries within the Kingdom after the necessary implementing legislation has been provided. In accordance with Article 18 of the Vienna Convention of 23 May 1969

Vienna Convention on the Law of Treaties (Trb. 1972, 51) must countries within the Kingdom also expressed their support for ratification refrain from actions that conflict with the object and purpose of the Treaty.

## 2. Article-by-article explanation

### 2.1 Chapter I (Objectives, principle of non-discrimination and definitions)

#### Article 1 (Objectives)

In the introduction to this explanatory memorandum, mention has already been made of the broad objectives of the Treaty. These are reflected in the first paragraph. The Convention does not only concern the prevention and combating of sexual exploitation and sexual abuse, but also on the protection of the rights of children who are victims of sexual exploitation and sexual abuse. The scope of the Convention means that not all of its components are primarily within the domain of Justice; responsibility for the implementation of the Treaty is shared by various departments.

Article 1 further establishes beyond doubt that both national and international cooperation is essential for an effective approach to sexual exploitation and sexual abuse.

The second paragraph states that a specific monitoring mechanism must ensure effective implementation of the treaty obligations. To this end, a Committee of the Parties shall be established called (see the explanation of Chapter X below).

#### Article 2 (Principle of non-discrimination)

This provision emphasises that the implementation and execution of the provisions of the Convention must be guaranteed without any discrimination on any grounds whatsoever. The classic grounds of discrimination, derived from Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and Article 1 of Protocol No. 12, concluded in Rome on 4 November 2000 to the ECHR (2001, 18), are mentioned. In addition, the Convention further includes the grounds of "sexual orientation", "health" and "disability". However, the list is not exhaustive.

#### Article 3 (Definitions)

The Convention defines "child" in subparagraph (a) as any person under the age of than eighteen years. This is in line with the internationally accepted definition.

As regards what the Convention understands by "sexual exploitation and sexual abuse" in part (b) refers to the provisions of Articles 18 to and criminal conduct defined in Article 23 of the Convention. Where

other international instruments focus primarily on sexual exploitation of children, with an emphasis on commercial component (child prostitution, child pornography and child trafficking). the present Convention also covers sexual abuse as well as exploitation such.

Finally, subparagraph (c) sets out what is covered by the Treaty. The term "victim" must be understood as meaning any child who is subjected to sexual exploitation or sexual abuse.

## 2.2 Chapter II (Preventive measures)

### Article 4 (Principles)

This provision reflects the main objective of the Treaty: prevent sexual exploitation and sexual abuse of children take place. Parties are obliged to take the necessary measures to protect children from sexual exploitation and sexual abuse to protect. When taking measures, parties have room to develop its own policies and policy programs. The government is in favor of a strong approach to child abuse. Sexual exploitation and sexual abuse are a serious form of child abuse. The protection of children from sexual exploitation and sexual abuse is an integral part of the broad approach to child abuse. The package of provisions and measures that will be taken in the Netherlands in this area in the near future is laid down in the Action Plan to Combat Child Abuse (Parliamentary Papers II 2006/07, 31 015, no. 16). Four core objectives are for the Action Plan approach child abuse leading: prevention, detection, stopping and limiting of the harmful effects of child abuse. With these core objectives, the Action Plan ties in with the broad approach of the Convention, which both preventive, protective and care-providing, as well as criminal law provisions have been included.

### Article 5 (Recruitment, training and awareness touch of persons that during their work with children in come)

The first and second paragraphs of this article are about increasing knowledge and awareness about sexual exploitation and sexual abuse in those who work in the environment of children. The Action Plan approach child abuse includes a number of measures aimed at professional development for people who work with children. A of these measures concerns the introduction of the Reflection working method and Action Group on Combating Child Abuse (RAAK). A specific point of attention within this method is the development of expertise of professionals and volunteers who work with children throughout the chain.

The third paragraph obliges parties to ensure that persons who are convicted of child sexual abuse, denied access have professions that involve regular contact with children. Parties have the necessary space for their own policy, for example, where the proportionality test and the reintegration of convicts in society. The Convention concludes with this provision closely follows the Dutch system of the declaration regarding the conduct (see, among others, Parliamentary Papers II 2006/07, 30 800 VI, No. 40). In the Netherlands, the declaration of conduct is required by law for a number of professions in which one is involved in the exercise of the profession regularly comes into contact with children and in particular those professions in which there is a relationship of dependency. This applies to the primary and secondary education and childcare. For many other sectors, although there is no legal obligation, there are

agreements that the certificate of conduct is requested or made organizations that do so on their own initiative.

Article 6 (Information for children)

This provision obliges parties to inform children about the dangers of sexual exploitation and sexual abuse and children on to make it resilient and protect it in this way. The government policy includes a large number of measures in this area. Among other things, it can be pointed out the measures under the All Opportunities programme for All Children from the Minister for Youth and Family (Parliamentary Papers II, 2006/07, 31 001, no. 5) and the 2007 report by the State Secretary for Health, Welfare and Sport started program Sexual health of youth. Also in the Emancipation Memorandum from the Minister of Education, Culture and Science (Parliamentary Papers II 2007/08, 30 420, no. 50) the importance of increasing resilience is emphasized of girls and boys against (sexual) violence recognized.

Article 7 (Preventive intervention programs and -measures)

Parties are obliged to ensure that persons who fear that they commit any of the crimes set forth in the Convention, access have to intervention measures. Within the framework of regular mental health care, intervention and treatment options exist.

Article 8 (Measures aimed at general public)

This provision obliges parties to conduct public campaigns in which information and education are provided about sexual exploitation and child sexual abuse. The periodic public campaign in the The Action Plan to Combat Child Abuse has a general reach and focuses on both children and people in the area around children. The aim of the campaign is to create broader awareness of the public regarding child abuse and the promotion of alertness to the phenomenon and responsibility for reporting it. The DigiBewust information campaign specifically points out the dangers that pretend to be children on the Internet and when using other modern means of communication. In order to implement the Treaty, In the coming period we will consider how information about safety will be provided Internet use can be brought to the attention of parents and children more broadly are brought.

Article 9 (Civil society of and children, the private sector, the media, the participation)

This provision calls on parties to protect children, the private sector, the to involve civil society and the media in development and implementation of policies to combat sexual exploitation and child sexual abuse.

In the Netherlands there is broad cooperation in this area between public and private parties. Some examples of this can be mentioned. The information campaign was already mentioned above DigiBewust, a partnership between government and the private sector that, among other things, provides information about responsible use of modern means of communication by children. Furthermore, the private reporting center subsidized by the Ministry of Justice Child pornography plays an important role in preventing and combating child pornography. This reporting center offers an easily accessible option

to report sexual exploitation of children. The reporting centre has good relations with the Dutch police on the one hand and with similar reporting centres abroad on the other, which in turn have contacts with the police in their country.

Furthermore, with regard to combating child pornography, reference can be made to cooperation with internet providers with the aim of blocking sites offering child pornography. This concerns a public-private partnership agreement between the Dutch police and internet providers on blocking websites with child pornography hosted abroad. The first agreements on this subject were made with internet providers in 2007.

In the fight against suppliers and purchasers of child pornography on the Internet, payment transactions that take place can provide a starting point for criminal investigations.

Financial institutions generally recognise that they also have a role to play in combating child pornography on the Internet. A number of financial institutions have united in this spirit in the Financial Coalition Against Child Pornography. In the coming period, further consultations will take place with the financial institutions on the content of their role.

In consultation with the Ministers of Health, Welfare and Sport and for Youth and Family, an approach has been developed together with the Association of Dutch Volunteer Organisations (NOV) to prevent children within volunteer organisations from becoming victims of sexual abuse. The basis for this is a nationally uniform set of rules of conduct that, if complied with, will reduce the risks. In addition to the set of rules of conduct, there will be a protocol with agreements describing how to act if the rules of conduct are violated (see Parliamentary Papers II 2007/08, 31 200 VI, no. 43).

### 2.3 Chapter III (Specialised authorities and coordinating bodies)

Article 10 (National measures on coordination and cooperation)

Under the first paragraph, parties are obliged to ensure coordination between the various institutions responsible for preventing and combating sexual exploitation and sexual abuse of children.

The vigorous combating of all forms of child abuse is one of the spearheads of the government policy. The coordination of this approach falls under the responsibility of the Ministry of Justice and the program ministry for Youth and Family. A successful approach to child abuse, however, requires efforts from all involved governments, agencies and professionals and close mutual cooperation. The aforementioned Action Plan to tackle child abuse creates the necessary preconditions for this integral and coordinated approach for the coming period.

The second paragraph obliges parties to provide for (a) one or more independent organisations for the promotion and protection of the rights of the child, and (b) mechanisms for investigating the phenomenon of sexual exploitation and sexual abuse of children.

The third paragraph encourages parties to promote cooperation between public and private parties in this area.

With regard to the second and third paragraphs it can be stated that the Dutch government has made money available for information

about children's rights in the Netherlands. The Children's Rights Collective receives an annual subsidy to produce information material, including a website for children's rights ([www.kinderrechten.nl](http://www.kinderrechten.nl)). The website offers information on children's rights for children, parents and professionals in the form of general information on children's rights and recent developments in this area.

In general, children and youth are already a focal point in the investigation by the National Ombudsman. Currently, in consultation with the National Ombudsman looked at the possibilities for supervision of to give compliance with children's rights its own recognizable place.

#### **2.4 Chapter IV (Protective measures and assistance to victims)**

##### **Article 11 (Principles)**

This provision obliges parties to provide a structure within which victims and their families receive the necessary support.

If the age of the victim cannot be determined immediately, established, this should not be an obstacle to providing protection and care.

##### **Article 12 (Report by the suspicion by sexual exploitation or sexual abuse)**

There are no legal restrictions in the Netherlands in the event of a reasonable suspicion of sexual exploitation or sexual abuse this suspicion. Not even for those who are subject to professional secrecy. In the context of the Action Plan to tackle child abuse work is being done to improve signaling and reporting of (suspicions of) child abuse, including sexual exploitation and sexual abuse, by people who work with children: professionals, professionals and volunteers. A number of professional groups make already uses the Child Abuse Reporting Code, or has developed similar reporting codes. For example, the Child Abuse Standard (the reporting code for youth health care) is part of the assessment framework of the health care inspectorate and forms this part of the basic task package. One of the measures from the Action Plan approach to child abuse is that all institutions and professionals who work with children use a clear reporting code. This measure also applies to the volunteer sector. Furthermore, efforts are being made to promote the application of the reporting code.

##### **Article 13 (Guidelines)**

In the Netherlands, child abuse can be suspected made from the nationwide network of AMKs (Child Abuse Advisory and Reporting Center). If the AMK receives a report, a investigation will be started into the child's situation. The children's helpline is especially designed to provide help and information to children ([www.kindertelefoon.nl](http://www.kindertelefoon.nl)), a part of the Youth Care Bureau. Both You can obtain confidential help, advice and information by telephone or via the internet are obtained.

##### **Article 14 (Staff On victims)**

Reducing the harmful effects of sexual exploitation and sexual abuse is of the utmost importance. The Netherlands has a extensive package of facilities and measures with regard to assistance to victims of sexual offences. Help and care are also available

bar for people in the direct environment of victims. The Ministry of Justice annually finances the activities of, among others, Victim Support Netherlands and the Violent Crime Compensation Fund.

The third paragraph of this provision specifically focuses on taking measures against the child's parents or guardians at the time that these persons are involved in sexual exploitation or sexual abuse. Parties should provide for the possibility in those circumstances to remove the alleged perpetrator from the child's environment or the child to remove from his family situation. Dutch law provides both civil and criminal possibilities to

to remove the suspect of sexual abuse from the child's environment. With the bill on a temporary residence ban pending in the Senate (Parliamentary Papers I 2007/08, 30 657), if that bill becomes law, another administrative law possibility will be added.

That bill gives the mayor the authority to temporarily to impose a restraining order in the event of a threat of domestic violence or (a serious suspicion of) child abuse. There are civil law options to remove the child from the home in the child's best interests and to terminate authority.

## 2.5 Chapter V (Intervention programmes or measures)

### Article 15 (General principles)

Article 16 (what intervention programmes are intended for) and -measures

An integrated approach to sexual exploitation and sexual abuse of children also require attention for perpetrators of these serious criminal offences facts. Preventing sexual exploitation and sexual abuse and the reducing the risks of recurrence is, after all, the priority.

Chapter V of the Convention contains provisions targeting perpetrators and thus represents an important added value of the Treaty compared to other international instruments. Article 15 obliges to provide parties with effective treatment options and methods intended for the persons referred to in Article 16. In accordance with Article 16 both suspects and convicted persons must comply with the provisions of the Convention to have access to treatment programs for criminal offenses. In this respect, access to measures is voluntary for suspects

and may not have any negative consequences for the right to a fair process, in particular the presumption of innocence.

The Treaty allows parties to define their own programmes and measures.

In the Netherlands, a lot is happening in this area. There is a wide range of treatment programs that aim to prevent recidivism. Outside the judicial process there are treatment options within the framework of regular mental health care. Within the judicial process there is forensic care, which is characterized by treatment by medical experts and is aimed at reducing the risk of recidivism. In the guidance of persons who are receiving forensic care outside the correctional facility and persons who are in a conditional trajectory, probation plays an important role.

It should be emphasised, however, that the provisions of the Treaty are not intended to interfere with national arrangements regarding the treatment of convicts suffering from a defective development or a pathological disorder of the mental faculties. The treaty provisions affect therefore not subject to the Dutch system of provision of services.

## Article 17 (Information 17 and permission)

Article 17 emphasises that the person to whom a treatment programme is provided proposed, should be fully informed about this. The person concerned must be informed of the possible consequences of refusing to participate in a treatment program. In this context, reference may be made to the possibility in Article 80 of the Code of Criminal Procedure for the suspension of pre-trial detention under conditions. A condition could be that the person concerned is participating in a treatment program.

## 2.6 Chapter VI (Substantive Criminal Law)

## Article 18 (Sexual abuse)

This article requires the criminalization of sexual abuse of children. The article distinguishes two forms of sexual abuse. In the first paragraph, under a, commits sexual acts with a sexually minor child is punishable. This concerns a child who has not reached the legal age of sexual majority under national law. The second paragraph obliges each Member State for the application of the first paragraph, under a, an age for sexual to determine the age of majority. Because the legal age for sexual age of majority in the various member states of the Council of Europe varies widely (from 13 to 17 years), the Treaty leaves Member States free to determine this age yourself. In the first paragraph, under b, the commission of sexual acts with a child (any person under the age of eighteen) is punishable, if this is accompanied by (1) the use of coercion, violence or threats, (2) abuse of trust or authority (including within the family), or (3) abuse of special

vulnerable position of the child or a situation of dependency. The third paragraph contains an exception for situations where sexual contact between young people who mutually agree: this contact remains outside the scope of the Treaty. The intention of the Treaty is not to have normal sexual contact between young people of a similar age or to criminalize an equivalent level of personal development. Not even when it concerns children who are of legal age for sexual intercourse have not yet reached the age of majority. The Convention expressly states does not hinder healthy sexual and personal development of children and the normal sexual experiences that come with them. The Convention maintains the balance between criminal law on the one hand, protection of the child against sexual violations of integrity and on the other hand, protection of the personal privacy of the growing child. The criminalisation of child abuse included in the Convention sexual abuse is therefore in line with the relevant provisions of the morality legislation in the Criminal Code; in particular Articles 242 to 247 of the Dutch Criminal Code. In Dutch morality legislation, a person of legal age from the age of 16. Committing sexual acts with a person from that age are generally not punishable. Committing indecent acts with a person between the ages of 12 and 16 years are punishable. The term "indecent acts" is understood to mean: acts of a sexual nature that are contrary to the social-ethical norm. Normal consensual sexual contacts between young peers cannot be classified as such and fall therefore outside the scope of criminal law.

## Article 19 (Criminal offenses with (regarding child)prostitution)

This provision requires the criminalization of a number of intentional acts

committed acts relating to child prostitution. The first paragraph criminalizes (1) the recruitment of a child for prostitution, (2) the exploiting a child in prostitution or profiting from it and (3) using the services of an underage prostitute. The second paragraph contains a definition of child prostitution. The concept is interpreted to mean that the consideration for sexual intercourse is punishable actions may consist of payment of money, or some other form of reward or compensation or the promise thereof. This may include, for example, also includes the provision of narcotics or the giving of shelter or food. No distinction is made for criminal liability between a consideration provided or promised to the child itself or to a third party.

The conduct described under (1) and (2) is punishable under Article 273f, first paragraph, under 3°, 5°, 6° and 8° of the Criminal Code. The provisions described under (3) conduct is punishable under Articles 247 and 248b of the Dutch Criminal Code.

Article with (Criminal Offences 20 relating to child pornography)

This provision requires the criminalization of all kinds of intentional acts committed acts relating to child pornography. The acts in the first member, under a to e, the conduct mentioned is inspired by Article 9 of the Cybercrime Convention, provided that the a to e criminalised conduct in this Convention do not require the intervention of a computer system. Furthermore, these behaviors in more or less the same words already mentioned in other international instruments, such as the Framework Decision of the Council of the European Union on combating sexual exploitation of children and child pornography and the Optional Protocol on the sale of children, child prostitution and child pornography at the UN Convention on the Rights of the Child. Punishable are (a) the production, (b) the offering, (c) the distribution, (d) the acquisition and (e) the possession of child pornography. All of these behaviors are punishable stated in article 240b of the Dutch Criminal Code.

However, the Convention adds to the criminalisation of child pornography a new act. Part (f) punishes anyone who consciously through information and communication technology provides access to child pornography. The background to this criminalisation is as follows. The Convention explicitly takes into account developments in information and communication technology and the new opportunities for abuse that are offered by this. In this In this connection, the treaty drafters, on the initiative of the Netherlands, asked the question consider whether the criminalization of "possession" of child pornography is still is sufficiently tailored to modern methods of internet use to gain access to child pornography without actually owning the material to store on your own computer. After all, the concept of "possession" has traditionally a physical connotation. For that reason the Convention provides for the aforementioned extension of the criminalization. This criminalization would criminal acts involving child pornography that can be intercepted in the absence of downloaded material on the computer may not be subject to the criminalization of "possession" are brought. In particular, this may include persons who obtain access to child pornography for a fee, but view the punishable images only in "real time". The extension included in subparagraph (f) is optional. In accordance with the fourth paragraph, Member States may, if necessary, make a reservation to this provision make. The government intends to amend Article 240b of the Criminal Code in

the aforementioned extension of the criminalization of child pornography and will therefore not make a reservation to the Treaty on this point to make.

The second paragraph contains a definition of child pornography. This definition is virtually identical to the definition of child pornography in the Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The definition expressly includes so-called virtual child pornography. It concerns material that has been produced without direct involvement of a real child. On the occasion of the partial amendment of the In 2002, Article 240b of the Dutch Criminal Code made virtual child pornography punishable.

The third paragraph provides for two exceptions to criminalisation of possession (first paragraph, part a) and production (first paragraph, part e) of child pornography. The first opportunity to make a reservation concerns child pornographic images that be completely virtual. The starting point for the criminalization of virtual child pornography in article 240b of the Dutch Criminal Code is a broad criminal protection of children against sexual exploitation and sexual abuse. That broad scope of protection is the starting point for assessing whether in the in the case of virtual images, a criminal offence is involved. Under certain circumstances, images that are not clearly lifelike may also fall within the scope of Article 240b of the Dutch Criminal Code (cf. District Court 's-Hertogenbosch, 4 February 2008, LJN: BC3225). The Netherlands will respond to this then make no reservations. The second possibility for making a reservation concerns images in which sexually mature persons are below the age of 18 years are involved who have consented to the production and have the material in their possession exclusively for their own use. Strictly speaking, in that case there is a criminal production or criminal possession of child pornography. Apart from the fact that under those circumstances a suspicion will not easily arise, it offers expediency principle the possibility to refrain from prosecution. The making a reservation is not necessary.

Article 21 Facts relating to the criminalization of child pornography (Criminal child  
On

This provision requires the criminalization of a number of intentional acts committed acts concerning the appearance of children in pornographic representations. The provision is aimed at both the person who recruits a child for such a performance (first paragraph, part a) or forces participation (first paragraph, part b), if the person who consciously participates such performances are present (first paragraph, part c). All these acts are punishable under Articles 248c and 273f of the Criminal Code. Of the the second paragraph provides for the possibility of making reservations will therefore not be used by the Netherlands.

Article 22 (The corruption of children)

This provision requires that the intentional act of allowing a sexually abused minor child to witness sexual abuse or sexual acts for sexual purposes. Not punishable requires the child to participate in the sexual acts. This criminalization is new compared to the existing international instruments and aims to protect the child from harmful influences on personal and sexual development. In particular it concerns behaviors that are aimed at making a child susceptible

for sexual exploitation or sexual abuse. Implementation of this provision will lead to a tightening of morality legislation. The legislation to that end is included in the bill implementing the Convention.

Article 23 (Approach by children for sexual purposes)

Article 23 requires the criminalisation of the phenomenon of "grooming". This provision is new in the international context and is one of the key elements of added value compared to the existing international instruments. It is a response to a new form of abuse offered by the new communication possibilities.

The Convention defines "grooming" in short as the act carried out by a approach and seduce an adult person on internet sites or chat rooms of a sexually minor child with the ultimate goal of committing sexual abuse with that minor. For criminal liability it is required that the perpetrator's behavior materializes into a proposal for a meeting with the child followed by a concrete action aimed at realizing that meeting. These actions signify the stability of the intention to commit sexual abuse. The intention of a approaching and communicating with a child exclusively via the Internet, regardless of the intention and content of the communication, falls outside the scope of the criminal offence.

Under Article 248a of the Dutch Criminal Code, criminal prosecution may be initiated in certain cases action is taken against "grooming". The scope of that article is however, not equal to the criminalisation included in the Convention. implementation of the Convention and for the purpose of effective protection of children against such conduct, provision shall be made for a separate criminalisation in the Criminal Code. The legislation to this end is included in the bill implementing the Convention.

Article 24 (Complicity or incitement and attempt)

Attempting to commit crimes, complicity therein and the provoking a criminal offense is punishable in the Netherlands (Articles 45, 46 and 48 Sr).

Article 25 (Jurisdiction)

The first paragraph requires the establishment of jurisdiction when the fact its own territory or on board its own ship or aircraft committed, or when the act was committed by one of its own subjects or resident (parts a to e). Dutch criminal law has a broad jurisdictional regime with relating to sexual offences committed against minors. In the establishment of jurisdiction to which parts a to c require, provided for in Articles 2 and 3 of the Criminal Code. Articles 5 and 5a of the Criminal Code establish jurisdiction for sexual offences committed by Dutch nationals and Dutch residents outside the Netherlands against minors. The requirement of Double criminality does not apply to these crimes. For these crimes jurisdiction exists, even if the fact would be according to the law of the place of the crime are not punishable. The Netherlands thus complies with the jurisdiction provisions included in the Convention, which are primarily aimed at combating of sex tourism.

The second paragraph suggests that parties consider establishing jurisdiction about facts committed abroad against its own subjects and residents. It is an incentive, not an obligation. The Netherlands does not have

general regime for extraterritorial jurisdiction for criminal offences committed against Dutch victims.

The sixth paragraph is not relevant for the Netherlands because for the purposes of the Treaty criminal offences described the complaint requirement does not apply as a condition for detection and prosecution.

The seventh paragraph, which obliges parties to establish jurisdiction for the case where an offender is present on its territory and extradition of he is refused on the grounds that he is a national of the requested State is not relevant for the Netherlands because in the Netherlands the circumstance that the act was committed by one of its own nationals, extradition need not stand in the way. Moreover, Dutch criminal law, as indicated above, already has as a starting point that

Dutch citizens can be prosecuted if they practice foreign having committed a sexual offense against a minor.

The eighth paragraph requires the parties to consult with each other when more than one party claims jurisdiction.

Under paragraph 9, the parties are free to establish other forms of jurisdiction in addition to the treaty obligations regarding jurisdiction to establish jurisdiction.

#### Article 26 (Liability by legal entities)

This provision requires the establishment of liability of legal persons for criminal offences committed by a manager within the legal entity and which are to the benefit of the legal entity committed.

Article 51 of the Dutch Criminal Code provides for criminal liability of legal persons

#### Article 27 (Sanctions and measures)

The first paragraph requires that effective, proportionate and dissuasive penalties be imposed on natural persons, whereby account is taken of the seriousness of the facts. These penalties should to include custodial sentences that allow extradition.

The second paragraph requires effective, proportionate and dissuasive penalties for legal persons, including criminal or non-criminal fines. In addition, the article lists a number of possible measures.

The third paragraph obliges parties to provide for a number of measures. This concerns seizure and confiscation (part a) and the possibility of confiscating properties that have been used to commit criminal offences, to close temporarily or permanently, or to temporarily or permanently detain the perpetrator prohibit the person from carrying out the activity in which he committed the criminal offence committed (part b).

Dutch law provides for these penalties, sanctions and measures. Article 28, first paragraph, under 5°, of the Dutch Criminal Code provides the judge with the right to in certain cases the possibility of punishing the guilty party as an additional punishment to deprive the offender of the right to practice certain professions. In the event of a conviction for a sexual offence, the judge may deprive the offender of the right to practice certain professions. the profession in which the crime was committed (Article 251 of the Criminal Code). As regards the measures against legal persons referred to in the Treaty, it should be noted that legal persons whose activity or purpose is contrary to is in conflict with public order at the request of the Public Prosecution Service may be declared prohibited and dissolved by the court (Article 2:20 BW).

With regard to the penalties for child pornography, mentions that in 2007 the Public Prosecution Service tightened up its criminal prosecution policy with the Child Pornography Directive (2007, 79).

**Article 28 (Aggravating circumstances)**

This article lists a number of aggravating circumstances that must be taken into account by the court when determining of the penalty to be imposed for the offences defined in the Convention facts. In the Dutch system of statutory maximum sentences, the idea that these maximums give the judge room to take into account taking into account aggravating circumstances. Furthermore, article 273f, third to seventh paragraph, Article 248 and Article 43 of the Criminal Code explicitly increased penalties for a number of the circumstances mentioned in Article 29.

**Article 29 (Previous convictions)**

Under this provision, parties must provide for the possibility that when imposing a penalty, any possible consequences are taken into account previous irrevocable convictions in respect of similar facts imposed in another Member State.

The Dutch court is free to take into account final convictions pronounced in another contracting party.

It is worth noting that in the European Union political agreement a framework decision has been reached obliging Member States to provide for that a final conviction pronounced in another Member State may have consequences equivalent to those consequences that may be associated with a previous conviction in the country itself. It is expected that this framework decision will be adopted shortly be formally established.

**2.7 Chapter VII (Investigation, prosecution and procedural law)****Article 30 (Principles)**

Article 30 sets out a number of general principles for the treatment of children who are victims of sexual exploitation or sexual abuse. Parties must take measures to ensure that the rights and interests of children who are victims of sexual exploitation or sexual abuse, during the investigation and the criminal proceedings are observed. These measures are aimed at to prevent secondary victimization. The responsibility of the government to maintain the law and order obliges the government to take into account the victims of crime, both in as outside the criminal process. This is especially true where vulnerable victims of very serious crimes are concerned, such as children who are victims become victims of sexual exploitation or sexual abuse.

The fourth paragraph expressly states that the measures that are taken to serve the interests of the victim, not may undermine the requirements of a fair trial as laid down in Article 6 ECHR.

The fifth paragraph obliges parties to guarantee the possibility of effective investigation and, where necessary, to provide for the possibility of using special investigative resources. The Netherlands has a active investigation and prosecution policy. The Child Pornography Directive (Stcr. 2007, 162) includes a regulation for the investigation and prosecution of child pornography, with special attention to detection of child pornography on the internet. An effective criminal approach of, for example, child pornography on the Internet, given the rapid changes on the internet and the new possibilities for abuse of that medium, to regularly test whether the existing possibilities for

detection and prosecution of child pornography to the present day be adequate. In this connection, reference may be made to the 12 March 2008 bill for partial amendment submitted to the House of Representatives Criminal Code, Code of Criminal Procedure and some related laws in connection with the criminalization of participating and cooperate in training for terrorism, expand the possibilities for dismissal from the profession as an additional punishment and some other amendments (Parliamentary Papers II 2007/08, 31 386, no. 2), which include: an extension of the criminal law powers to investigate and prosecution of child pornography has been included.

Furthermore, the fifth paragraph obliges parties to focus on identification of victims of child pornography. It is of the utmost importance to identify victims who appear in child pornography material in order to prevent the abuse from continuing. Identifying of the victims and the suspects who abuse these victims, is the main driver for child pornography investigations. With the advent of the Internet, child pornography spreads more easily across national borders. The worldwide use of the Internet requires also an international approach and coordination of child pornography and the identification of victims and perpetrators. The National Police Agency (KLPD) manages the national child pornography database. Interpol manages the international database of child pornography, which contains all images are included, the victims and perpetrators of which have been identified. Information is exchanged between the KLPD and Interpol about victims and perpetrators on seized material. The Netherlands will continue to actively support Interpol's efforts in this area in the coming years.

#### Article 31 (General protective measures)

This article obliges parties to take a large number of measures to protect the rights of victims during the investigation and during the criminal proceedings.

The Victim Care Directive (, 2004, 80) sets ~~of~~ ~~the~~ principles for the police and the public prosecutor's office regarding the treatment of victims. Furthermore, this instruction contains regulations with ~~of~~ ~~the~~ regarding the provision of information to the victim about the course of the criminal proceedings. The police and the public prosecutor's office Instructions for the investigation and prosecution of sexual offences abuse (2005, ~~of~~ ~~the~~) contains extensive regulations regarding to the investigation and prosecution of sexual abuse in general and in dependent relationships and contains rules for the treatment of victims of sexual crimes.

Dutch criminal procedural law contains provisions for victims which can also be used for victims of sexual exploitation and sexual abuse. The bill pending in the Senate strengthening the position of victims in criminal proceedings (Parliamentary Papers I 2007/08, 30 143) aims to further strengthen the position of the victim in criminal proceedings. improve. In anticipation of this bill, a number of a number of additional practical measures have been initiated. These measures are set out in the plan "Victim-centric" (Parliamentary Papers II 2006/07, 31 101, no. 1).

In the Netherlands, witnesses enjoy criminal protection on the basis of Article 285a of the Criminal Code and criminal protection in Articles 226a et seq. of the Criminal Code regarding threatened witnesses. In the Netherlands, the KLPD has a department witness protection charged with carrying out measures to protection of witnesses and their families. The decision to provide special measures to be taken for the benefit of witnesses are taken by the College of Attorneys General.

It is also worth noting that, pursuant to Article 167a of the Code of Criminal Procedure, the public ministry the minor victim of sexual abuse from the age of 12 if possible, give the opportunity to express his or her opinion about the crime committed to make the fact known.

**Article 32 (Setting of the procedure)**

Under this provision, Parties may initiate criminal investigations or prosecutions in respect of any of the offences specified in the Treaty not make criminal offences dependent on a report or complaint from the victim. For the offences defined in the Convention, the following applies: The Netherlands does not require a complaint as a condition for investigation and prosecution.

**Article 33 (Limitation period)**

This provision obliges the parties to comply with the provisions of Articles 18, 19, first paragraph, parts a and b, and 21, first paragraph, parts a and b, to provide for a limitation period for the criminal offences described such a duration that it is possible to institute proceedings even after the victim has reached the age of majority.

Research shows that victims of sexual exploitation or sexual abuse takes a long time to recover from in their early childhood to process trauma. This provision aims to give the victim sufficient time to give to think as an adult about what is his or her affected and become aware of the possibility of doing of notification. Dutch criminal law stipulates that with regard to For sexual offences committed against children, the limitation period begins when the victim reaches the age of eighteen. The statute of limitations for sexual offenses committed against minors is at least twelve years.

**Article 34 (Research)**

In accordance with this provision, parties must provide for specialized personnel for the detection and prosecution of sexual exploitation and sexual abuse.

Within the Public Prosecution Service, each district court has a the public prosecutor's office has a contact officer in the field of morals matters designated. This public prosecutor or advocate general has relevant expertise and experience. The contact officers are nationally organized in the Public Prosecution Service platform morals, in which, among other things, developments in case law and policy are discussed. Management takes place place by the Attorney General responsible for the portfolio morals. In the context of the training of employees within the public prosecutor's office, morals has been designated as a specialism, with associated training course.

Investigation of sexual offences is carried out by specialised detectives. A certification programme is provided within the police training with special courses to promote expertise in the field of sexual offences. Certified detectives are part of the morals departments in the police regions and support, where possible, the employees of basic police care.

A central role in the coordination of (inter)national In the Netherlands, detection is assigned to the Product Team Combating Child Pornography at the KLPD. This product team has also been set up as a knowledge and expertise centre for the entire Dutch police force. In the An additional package of measures will be implemented in the near future to provide expertise and capacity to combat cybercrime at both the police and the public prosecutor's office is structurally

strengthen. Priority attention will be given to combating child pornography on the internet. The aim is to improve the approach to child pornography along two lines. In the First place will be the Rotterdam Regional Investigation Team (BRT) start research into child pornography. Research is currently underway child pornography at national or regional level. The BRT will focus on matters that require too much capacity at regional level, but also do not lend themselves well to the national level. At the BRT can benefit from the broad knowledge and technology available within the police are brought together and innovative insights can be tried out. Experiences of the BRT will be shared with the regional police forces and the KLPD. Secondly, a start will be made with a broad national improvement trajectory under the active management of a national project team. This process must include a monitoring function developed. Furthermore, in addition to research into the nature, scope and developments, there is explicit attention for identifying and further disseminating of so-called best practices (see also Parliamentary Papers II 2007/08, 31 200 VI, no. 146).

**Article 35** (The interrogation of children)

This provision concerns the questioning of children as witnesses in criminal proceedings. Parties are obliged to take a number of measures taking into account the particularly vulnerable position of a child as a witness in a criminal case. The Instruction for the investigation and prosecution of sexual abuse (2005, 17) contains special regulations on the hearing of victims of sexual offences. According to the directive, a victim or witness of a sexual offence between the ages of four and twelve or an older person with a developmental delay, heard according to the appendix to the instruction attached Protocol studio interrogations. That protocol states described in detail where, by whom and in what way such a interrogation must take place.

In accordance with the second paragraph, parties are obliged to provide the opportunity provide for the questioning of minor victims or children who act as a witness, be recorded on video. The video recordings must be able to be introduced as evidence in a criminal case. Dutch legislation and regulations provide for this possibility.

**Article 36** (Criminal proceedings)

In accordance with the first paragraph of this provision, parties must provide for training opportunities in the field of children's rights for legal professionals involved in criminal proceedings. In the Netherlands, these training opportunities are sufficiently available. For example, a basic and advanced course on morality legislation is part of it of the course and training offer of the SSR, the study center for the judicial organization.

Under the second paragraph, parties are obliged to take two specific measures relating to criminal proceedings: (a) the possibility of holding the case behind closed doors and (b) the possibility of hearing the victim in court without to be present there yourself. Dutch criminal procedural law provides for the possibility of hearing the case behind closed doors (Article 269 of the Code of Criminal Procedure) and questioning witnesses by video conference (Article 131a of the Code of Criminal Procedure).

**2.8 Chapter VIII (Recording and storing data)**

Article 37 (To establish and (storing by national data on convicted sex offenders)

This provision obliges parties to prevent and prosecute sexual exploitation and sexual abuse of children DNA profile of those who have been convicted for one of the crimes described in the treaty criminal offences have been convicted, to be recorded. The parties must also provide the ability to share this data with each other.

Based on the DNA Testing of Convicted Persons Act (. 2004, 465) Stb and the Decree of 10 December 2007 amending the list of violent and sexual crimes to which the DNA Research Act applies applies to convicted persons (. 2007, 513), §1b convicted of an offence as described in Articles 240b, 242 to 247, 248a, 248b and 273f Sr cell material taken from for the purpose of determining his or her DNA profile and processing it in a DNA database. In order to implement the Treaty, Article 248c of the Criminal Code will and the criminal offences provided for in the implementing legislation also include this arrangement will be brought.

The exchange of DNA data can take place in the context of international legal assistance.

**2.9 Chapter IX (International cooperation)**

Article 38 (General principles of and measures with regard to international cooperation)

The first paragraph of this provision obliges parties to act as much and as widely to work together as possible in preventing and combating sexual exploitation and sexual abuse of children, protecting and providing assistance to victims, and the investigation and proceedings into the offences defined in the Convention.

The second paragraph obliges parties to provide for the possibility of a victim to report a crime in his own country covered by the Convention specified criminal offence committed in the territory of another Member State. Dutch law provides for this possibility.

The third paragraph provides that, if a Member State acknowledges the existence of a treaty basis as a condition for granting mutual legal assistance or the granting of a request for extradition, the Convention may be regarded as a basis for this by the parties. In order to implement this provision, the Treaty will be amended in Article 51a of the Extradition Act to be included.

The fourth paragraph contains an encouragement to parties to integrate, where possible, the prevention and combating of sexual exploitation and sexual abuse in development cooperation with third countries. The Netherlands will set up a project in the context of development cooperation Cambodia which will provide assistance to the authorities to prevent and combating sexual exploitation and sexual abuse (see also Parliamentary Papers II 2007/08, 31 200 VI, no. 146). This will be done in conjunction with sought in the work of non-governmental organizations.

**2.10 Chapter X (Supervision mechanism)**

Article 39 (Committee of the Parties)  
 Article 40 (Other representatives)  
 Article 41 (Taken they Committee the Parties)

It is important that an effective monitoring mechanism exists to supervise the proper implementation of this comprehensive Treaty. In order to For this reason, the Convention provides for a Committee of the Parties composed of representatives of the Parties to the Convention. The Committee of the Parties shall meet for the first time when ten States have ratified the Treaty.

In addition to representatives of the Parties to the Treaty, a number of representatives of relevant parts of the Council of Europe to be part of the Committee of the Parties. Furthermore, is it possible to appoint representatives from society? to allow civil society to participate as observers in the Committee of the Parties.

The Committee of the Parties shall monitor the implementation of the Convention and has a facilitating role when it comes to exchanging information, identifying best practices and monitoring relevant legal, policy and technological developments.

**2.11 Chapter XI (Relationship with other international instruments)**

Article 42 (Ratio the Convention on the Rights of the Child to and: It Optional Protocol thereto on the sale of child pornography) by children, child prostitution and

This article explicitly establishes the relationship with the UN Convention on the rights of the child and the accompanying Optional Protocol on the sale of children, child prostitution and child pornography. The Convention does not in any way detract from those instruments, but aims to to improve the protection provided therein and the standards established to develop further.

Article 43 (Ratio other international instruments)

This article regulates the relationship with other international instruments. This is a common provision, which is also included in other treaties of the Council of Europe, most recently in the Council Treaty of Europe on combating trafficking in human beings and the 16 May Council of Europe Convention on the Elimination of Discrimination against Human Rights, concluded in Warsaw in 2005 prevention of terrorism (2006, 34). Trb.

The third paragraph contains the so-called disconnection clause and is specifically aimed at regulating the relationship between the Council of Europe and the European Union and the European Community. Parties that are also members of the European Union, apply in their mutual relations the rules of the European Community and the European Union to the extent that such rules shall apply in the specific area concerned, without prejudice to the object and purpose of the Treaty and without prejudice to the its full application in relation to other parties.

**2.12 Chapter XII (Amendments to the Treaty)**

Article 44 (Changes)

This provision provides for the assessment and consideration of proposals for amendments to the Treaty.

## 2.13 Chapter XIII (Final Provisions)

- Article 45 (Signing entry into force)
- Article 46 (Accession the to Treaty)
- Article 47 (Territorial application)
- Article 48  
(Reservations Article)
- (Cancellation of Article)

The Treaty also provides for signature and ratification/acceptance/approval by non-members of the Council of Europe which have participated in its elaboration and by the European Community.

Accession is subject to unanimous consent by the parties also possible for non-members who have not participated in the drafting of the Treaty.

The Treaty will enter into force three months after five signatories of which at least three member states of the Council of Europe, the Convention have ratified. Currently (May 2008) 28 Member States have ratified Treaty signed and no state has yet ratified the Treaty.

These final provisions are customary and do not require further explanation, with the exception of Article 48 on reservations. According to Article 48, no reservations may be made, with the exception of the possibilities for making a reservation in which explicitly provided for in the Treaty. The Netherlands will, as indicated earlier in this explanatory memorandum, not make use of these possibilities.

The Minister of Justice,  
EMH Hirsch Ballin

The Minister of Foreign Affairs,  
MJM Verhagen

The Minister for Youth and Family,  
A. Rouvoet



Doc. 13065 06

December 2012

## Serious violation of the Lanzarote Convention by the Netherlands

**Written question no. 621 to the Committee of Ministers** by Mr Luca

VOLONTÉ, Italy, Group of the European People's Party

In 2008 and 2010, two young Turkish men pressed criminal charges against the recently retired Secretary General of the Ministry of Justice in the Netherlands, Mr JD. The men claim that they and numerous other Turkish boys were raped and sexually abused by JD when they were only 12 and 14 years old. Despite an overwhelming number of available primary witnesses, the claims of these Turkish men never led to an official criminal investigation as defined in the Dutch Code of Criminal Procedure. Only a so-called "exploratory" investigation was conducted in the Netherlands, while JD remained in office and in the position to easily influence the prosecution and police.

Recently, the two men lodged an appeal to the High Court in the Hague, calling for the indictment of JD. They claim that the refusal of the Dutch National Public Prosecution Service's to investigate their claim is in violation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "Lanzarote Convention"). Since their first reports, the men have been repeatedly harassed and seriously mistreated in Turkey to make them drop the charges against JD.

This was not the first time that complaints of child abuse against this senior civil servant were not properly investigated in the Netherlands and that the victims were intimidated.<sup>1</sup>

The Netherlands has signed and ratified the Lanzarote Convention which stipulates that victims shall be protected from intimidation and their accusations treated as priority and investigated even if the victim withdraws his or her statement.

Mr Volonté,

To ask the Committee of Ministers

- Does it agree that the Netherlands has seriously violated its obligation to implement the Lanzarote Convention with the continuous refusal to initiate official inquiries into the numerous charges of child abuse against this senior Dutch official? Does it agree that this is scandalous, especially in view of the influential position of the accused person?
  
- Does it agree that an impartial investigation with international expertise must be conducted in this particular case?

1. In 1998, an Amsterdam police investigation was conducted into a paedophile network of influential Dutch customers of brothels with underage boys: the Rolodex case. The investigation targeted high-ranking Dutch officials and politicians suspected of abusing young boys in Amsterdam brothels. A Dutch victim was one of the key witnesses in that investigation. And one of the suspects in that investigation was Mr JD. But according to leading investigators in that case, as soon as JD became a person of interest in the case, the investigation was closed. The key witness claims someone threatened to shoot him.

In 2003, another Dutch victim claimed to have been sexually abused as a minor by JD. This victim withdrew his charges however after being interrogated by the Dutch police. He was subsequently convicted of making false declarations. To this day, however, also this victim insists that he was sexually abused by JD.

- Is it willing to ask the Dutch authorities to launch an impartial investigation with independent investigators from different countries?



Doc. 13144  
18 March 2013

## Serious violation of the Lanzarote Convention by the Netherlands

**Reply to Written question1:** Written question No. 621 (Doc. 13065)  
Committee of Ministers

1. In reply to the Honorable Parliamentarian's Written Question, the Committee of Ministers observes that according to information received from the Dutch authorities, the Netherlands considers that it has properly investigated the case in question. The case is currently pending before the Hague Court of Appeal. The Dutch Government underlines that combating sexual exploitation of children is a priority and that it has ratified and is implementing the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ("Lanzarote Convention", CETS No. 201).
2. The Committee of Ministers wishes to inform the Honorable Parliamentarian that it is not part of the monitoring procedure provided for by the Lanzarote Convention. This is the mandate of the Committee of the Parties ("Lanzarote Committee"), composed of representatives of the Parties to the Convention, including representatives of the Parties that may accede to the Convention under Articles 45 and 46 (Chapter X of the Convention), and in which the Parliamentary Assembly has a representative. Thus, the Committee of Ministers as such is not in a position to answer to questions concerning the effective implementation of the Convention.
3. Finally, the Committee of Ministers reiterates its strong support for the Lanzarote Convention as a major instrument to combat sexual abuse and sexual exploitation of children. The Committee of Ministers encourages all member States that have not yet done so to ratify the Convention as soon as possible.

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1. Adopted at the 1165th meeting of the Ministers' Deputies (13 March 2013).





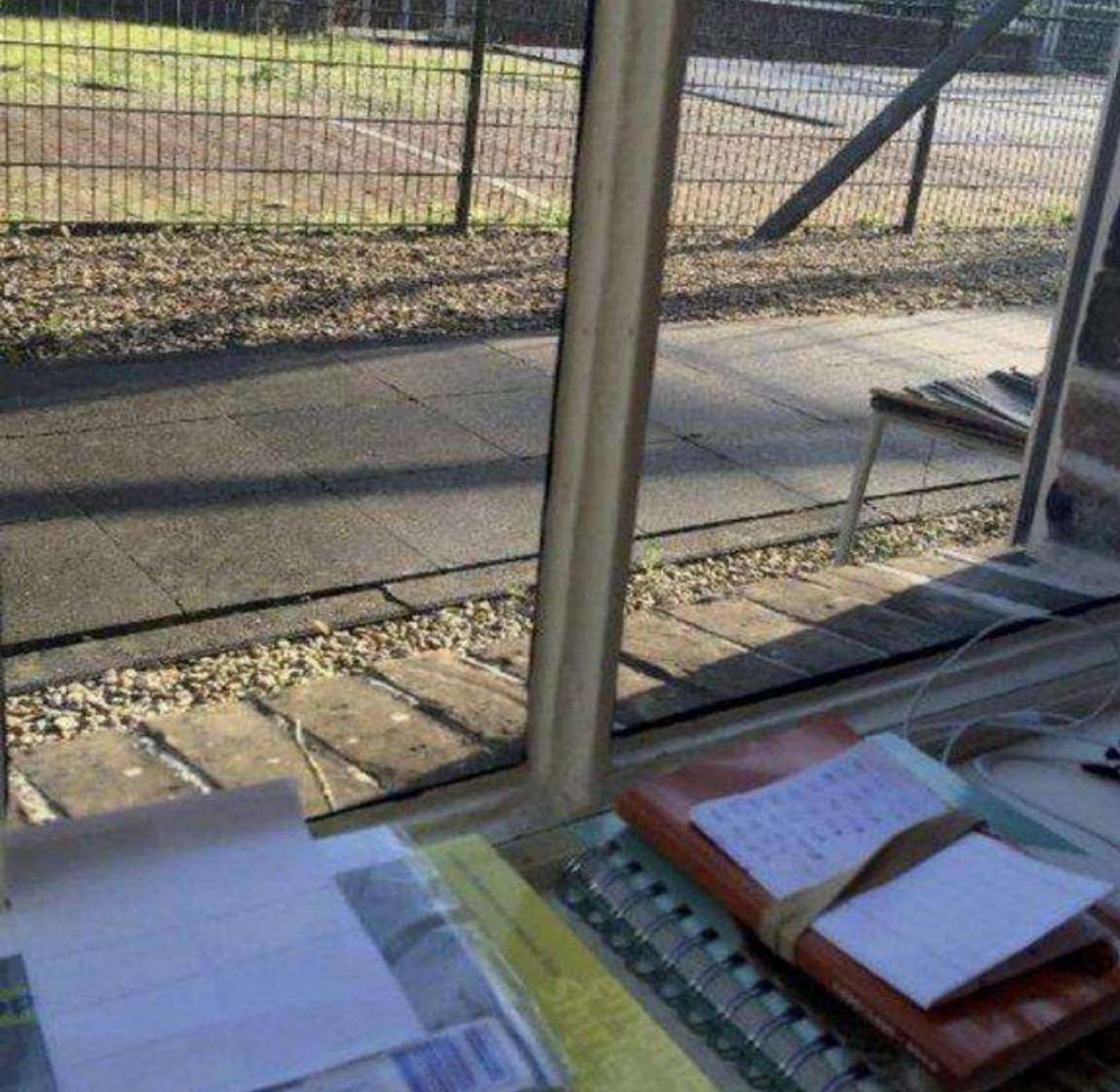


## Whistleblowers

Some well-known names: Willem Oltmans, Fred Spijkers, Paul van Buitenen, Roelie Post

Here follows the story of Ivonne Brinkerink

# Karaktermoord op een klokkenluider



CHARACTER ASSASSINATION OF A WHISTLEBLOWER

by: Ivonne Brinkerink

2018



# CHAPTER 1 – ACKNOWLEDGEMENTS

## Acknowledgements

I thank my children Tom and Shirley for their unconditional love, their loyalty, their humor, their mail when I was in detention and their visits for which they sometimes traveled for hours. But especially for their strength. These two heroes were 12 and 15 years old when they lost everything they loved. From their mother to their home, their friends, their base. What they had to endure was terrible and you would not wish it on any child and certainly not with their background.

Heroes, I am proud of you and no matter how intense this was, it has also shaped you into two beautiful young adults who are now firmly in their shoes. It can never get worse than it was. I love you!

I would like to thank all the children who went with Friends of Tom and Invisible Other. We had so much fun with you and you taught us so much. Thank you for your trust and openness, which allowed us to understand and help other children better, because, to be honest, you did it all by yourself, with a little guidance. I am proud of you and will never forget you. All the best to you.

I thank my former employees. You lost your jobs from one moment to the next, but even worse, the children you had sometimes cared for for years. Thanks to your love, attention and dedication, you contributed to giving these children a foundation.

I thank Bram and Sharon for their eternal patience, for bringing food when we were starved by the Municipality of Almere after my detention, for their humor that made me laugh and laugh through my tears. Because they are there.

Always!

I thank my friend Bianca and her husband Jan. For listening to me when I called in panic, for helping to correspond with agencies, for their house that is always open and where a bed is available for me when needed.

Thanks to the help of my network we have survived so far. Whether it is food, a plane ticket, medical expenses or a listening ear there is always someone who helps out or comes up with a solution. There are a lot of people from whom I had to borrow money. To this day I still cannot pay it back for which I apologize. I am trying and will continue to try to find a solution for this and I am confident that it will work out. Your patience will be rewarded.

It remains for me to thank the other whistleblowers. We encourage each other, watch out for each other and keep each other alert. The life we are living now cannot be called a life. Always alert, sometimes starving, hidden, hunted and destroyed.

Many of us by the government or by the municipality in which they live or lived. Hope keeps us alive. One day..... #StaySafe

From

## CHAPTER 2 – NO KIDDING

OPGEJAAGD



DOOR

DE OVERHEID

-NO KIDDING-

Halfway through 2009, I was made aware that there was an article about No Kidding in the newspaper entitled: Ritalin, Russian roulette <https://www.ouders.nl/artikelen/ouders-woest-over-anti-ritalin-actie-van-no-kidding>.

It was a direct attack on parents who gave their child Ritalin. No Kidding is an organization that makes people aware that child abuse exists

In concrete terms, they did and do nothing other than raise awareness, and they received subsidies for that. A lot of subsidies. They also ask people to collect for them and they organize all sorts of things to get money in.

The article triggered me. I am not an advocate of medication like Ritalin and certainly not for children, but I also saw children within Friends of Tom who really could not do without it. Who were dangerous to themselves and their environment without having control over their behavior and who suffered seriously from it themselves. These children had no friends, were impossible to maintain in a sports team and were warned all day long by parents, teachers, etc. for behavior that they could not do anything about, let alone concentrate on schoolwork. For these children, Ritalin was a godsend. There was someone else who disagreed with this article. Rebecca Albers.

More about her in one of the following chapters. Together we confronted the article and what we ended up in was a nightmare, sponsored by VWS.

At that time I was in regular contact with Justine Pardoen of Ouders Online and she also did not agree with this article. There was a lot of commotion. The media got involved and we were asked for interviews at a radio station, among other things.

### **Who is No Kidding**

In the meantime, we dug around and found out who the founders and the board of No Kidding were. We were amazed. No Kidding was founded by former model Anna Clowting. Anna was at the time, together with Gerard Steenbrink, founder of Profit for the World's children.

Both were also members of Paideia, a sect derived from Scientology. At the time this was happening, Scientology was even listed on their website. In the 90s, they were charged with child abuse and a baby died after a rough massage within this sect. However, the Public Prosecution Service decided not to prosecute. Jaap Jongbloed devoted a broadcast to it in 1999. There was more to come.

Board members of No Kidding also appeared to have other businesses in massage oils, among other things. They also received subsidies for many of these businesses.

### **Threats**

The threats against me started. Phone calls like: 'your daughter will be home soon, she just cycled past' until in the middle of the night a stone through the window in the room where Tom was sleeping. Luckily he was sleeping in my bed at the time. Wierd Duk, who worked at Elsevier at the time, contacted me and took over everything concerning No Kidding from us. An article appeared in Elsevier and on 22 October 2010 parliamentary questions were asked by Willy Dille (deceased 8 August 2018) of the PVV. <https://zoek.officielebekendmakingen.nl/kv-tk-2010Z15118.html>. These were received by the Ministry of Health, Welfare and Sport on 19 November 2010. VWS indicated that it would not be able to respond within the usual period. Here is the belated response from State Secretary Veldhuijen van Zanten-Hyllner (Health, Welfare and Sport), also on behalf of the State Secretary for Security and Justice <https://zoek.officielebekendmakingen.nl/ah-tk-20102011-833.html>.

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At the time Elsevier took over I let it go. Rebecca Albers was unemployed at that time and I hired her at Vrienden van Tom. One of my biggest mistakes ever but more about that later.

You're probably wondering now what this has to do with my arrest. I'll try to explain. I recently discovered that No Kidding is still very active. In fact, they are currently integrating into the neighborhood teams.

It is at least strange that A they still exist after everything that has come out about them, B they are stirring within the neighborhood teams with their past and C the smear campaign and the lies and spin about the child abuse figures by the Minister of Health, Welfare and Sport Hugo de Jonge ties in with the 'awareness-raising actions' of No Kidding.

Both Anna Clowting and Gerard Steenbrink left the organization of No Kidding stepped in to 'exclude any semblance of connection' *Source: De Stentor 21-10-2010*

Apart from that, not much has changed. Their website states that they do not receive any subsidy and they refer to their annual figures which are then nowhere to be found. VWS plays a major role in this 'movement'.

Just as VWS plays a major role in my arrest.

Het bestuur zegt in een verklaring dat er geen enkel verband is tussen activiteiten van Paideia uit het verleden en het werk van No Kidding nu. "Wat wel klopt is dat Anna Clowting en Gerard Steenbrink destijs in Paideia zaten en daarna in het bestuur van No Kidding." Om alle schijn van verbinding weg te nemen hebben beiden besloten zich direct uit het bestuur terug te trekken.

Het bestuur bestrijdt stellig de suggestie in het verhaal dat de stichting mensen geld uit de zak wil kloppen. "Al onze financiële jaarverslagen zijn op onze website te vinden en door een onafhankelijk accountantsbureau jaarlijks gecontroleerd." Al het geld dat binnenkomt, wordt volgens No Kidding volledig gebruikt voor onder meer publiekscampagnes, het netwerk van vrijwilligers inclusief opleidingen, huiskamerbijeenkomsten en (scholen)projecten, gecoördineerd door een klein projectbureau. "We zijn een onafhankelijke organisatie die niet verbonden is met enige politieke of religieuze stroming. We hebben geen winstoogmerk en we doen ons werk op basis van donaties en sponsoring, mede door de inzet van vele vrijwilligers."

Source: De Stentor

# CHAPTER 3 – THE BEGINNING



It all started here.

## **The diagnosis**

My son was diagnosed at a young age. His first diagnosis was PDD-NOS, ADHD and ODD. The child psychologist also thought he had an intellectual disability, but he was too young to test.

Much later it would become apparent that he was not mentally challenged but rather highly gifted and could adapt to what was expected of him.

Anyway, my son had to have a stamp put on him to get the right help. Once we had a stamp, we received one hour of help a week, but we mainly had to deal with waiting lists. Even then.

The year is 2004. Because his behavior was so aggressive, he was placed in temporary care until there was room at the Medical Daycare Center for Toddlers (MKD). placed in a + toddler playgroup. It gave some peace but two hours a day was just not enough.

## **Youth Care Office**

By the time we as a family had completely reached our limit, after an eight-month waiting list, he was allowed to go to the Medical Preschool Daycare Center where he could stay all day.

The Youth Care Office (BJZ) tried to give him an attachment disorder and out-of-home placement (UHP) in their report, but that was not successful.

Simply because he didn't have it and the child psychologist also stated this on paper.

### **Staying overnight from the PGB**

The Youth Care Office proposed a Personal Budget (PGB) so that he could stay overnight once a month. Help from BJZ was not available and so staying overnight from the PGB also made its entrance. Children with behavioral problems then stayed overnight in a group with a supervisor so that the home front could catch their breath. We received 1000 euros for him per quarter. It felt like getting paid because your child is sick and I cried a bit during that period. I soon found out that for this € 1000.00 he could only use the weekend stay twice a quarter via the care company that could be hired for that. But there was no more money in it and I discussed it with his nursery teachers. In the meantime he had been placed in a school for special education.

### **Center Parcs and 'Friends of Tom'**

The nursery teachers indicated that more parents were facing the same problems with their child. One plus one is two, so the nursery teachers and I decided that they would take a number of children to Center Parcs for a weekend. At that time, this was still possible with four children for half of what was asked for by healthcare institutions.

That first weekend was a resounding success and the good news spread like wildfire through the school, the neighborhood, Almere and after that first week there was even a phone call from Amsterdam from a desperate parent. The price for care was high. Especially when it was known that parents had a PGB for their child. I calculated what the real costs were and with the help of the notary I set up the Stichting Vrienden van Tom.

Within a year I had 52 employees, we worked nationwide and immediately jumped in where the bottlenecks were. Friends of Tom was recognized as an internship and training place. Teachers of Special Education (SO) switched to us and all children were helped immediately. Either in finding suitable education, or in the family, or in terms of overnight stays so that the rest of the family had some peace. PGB or not, we didn't keep anyone waiting. I was asked for interviews and as a result, the floodgates opened completely.

### **Emergency placement**

I can still remember word for word that first phone call requesting emergency placement. It was about M, (we'll call him Marcel here). He had been diagnosed with classic autism and his mother had just died of breast cancer.

He had no one to take care of him, except for his aunt, and no family in the Netherlands. It was 2:00 PM on a Friday afternoon and if no place was found by 4:00 PM, Marcel would be transferred to the juvenile detention center. Marcel did not have a PGB or anything like that at that time. My brain was working at lightning speed. We did not have emergency shelter, he could come with us to Center Parcs for the weekend, which gave me at least two days to find a good place for him within our immense network by then. I knew that once in prison, you would not get out within a year. He had no chance. I heard myself say on the phone: "Bring him, he can stay with us."

An hour later he was brought. With a bag of clothes and a picture of his mother he stood at the door. The person who brought him was gone again. Never heard from again. Marcel made no eye contact, looked unkempt and my heart broke.

I discussed it with my group leaders. What was best for him now? Straight to Center Parcs or just rest? We didn't know. My daughter, at the age of 8, unconsciously made the decision. "Mom, I feel so sorry for him, his mother is dead, he just got here and now he has to leave again and go to another address or to prison on Monday. Luckily you're not dead, right mom?" (my children knew and know that I have recurrent cancer and have had multiple operations).

I decided that he would stay with us that weekend. He didn't speak, didn't make eye contact, all he did was answer with yes or no. Resignation, resignation, fear. His eyes spoke of everything. He slept in my son's room that night and the next day I went shopping with him for clothes.

**He started to cry. He slowly allowed me to comfort him. He cried for an hour and a half before finally two questions came one after the other**

When he was in bed that night I heard sobbing from his room. I knocked on the door and asked him if he would mind if I sat with him for a moment and told him he could say or ask anything that was bothering him. He started to cry. He slowly allowed me to comfort him. He cried for an hour and a half before finally asking two questions in a row.

The first was: Will I never see my mother again? The second question was: Why do I have to go to prison, I didn't do anything? With a lump in my throat I told him that his mother was dead but would always be with him, in his heart, immediately followed by: "No, you don't have to go to prison, you can if you want to

"stay here".

That's what he wanted.

The first crisis placement was a fact. Just at my home.

It was the beginning of what would become emergency shelter, but I didn't know that at the time.

# CHAPTER 4 – MISTAKES IN YOUTH CARE



## **Emergency shelter**

It was 2009. The house was getting full. I now had four children with disabilities in the house. Three of them needed extra care and I could no longer give them the attention they needed. My daughter also needed care, different care than the three other children because she had previously had meningitis.

Apart from that, my son had a severe form of asthma which required him to be nebulized electronically several times a day and due to his disorder and autism he required 24/7 attention. Mostly negative attention. I decided to leave my house I owned with my own children and rent a house where I could live with my children.

The house would then be used entirely as emergency shelter for children.

## **The creative accountant**

Because my home was not allowed to be a crisis shelter by the SNS bank and the mortgage payment was therefore not allowed to be made from the company account, the accountant came up with the following solution: No more advance deduction would be requested from the tax authorities (after all, I no longer lived there) and

from the business account the gross mortgage of 990 euros would be transferred to my private account every month, which I would then transfer from my private account to the SNS bank. This was done in this way for 4 years with the knowledge of the Municipality of Almere, the guardians of the Youth Care Office, the Healthcare Office and even the SNS bank was aware of this. After my arrest they called this WAO fraud and Income Tax fraud and I was convicted for that. Of course I had questions about it to the accountant but he calmed me down with the words: No problem, I will straighten that out later. I did not understand it. That is why I hired an accountant. That is my fault.

I have never, at any time, interfered with the bookkeeping. Neither my business bookkeeping nor my private bookkeeping because he did that too.

#### **'Straighten'**

I never heard anything about it again, never thought about it again, but after my arrest, 5 years later, it turned out after questioning by the FIOD that nothing had ever been straightened out. These transfers of € 1000.00 per month to my private account for paying the mortgage for the emergency shelter were seen as income, but in my IB (income tax) returns for 2009 and 2010 there was nothing about it.

These declarations were made by my former accountant and I have never seen them. That was also clear and during my interrogations about this the interrogators also admitted that they had not found the IBs in my mailbox, that it had been sent from the accountant's IP address and from his accounting program but that I was responsible because they were my IBs and I should have had the accountant check them. As far as I know, the Tax Authorities never responded to them in the years in question. Fortunately, I have never requested advance deduction since my home became emergency shelter. A bit of a tax fraudster would have done that at the very least.

#### **Completely treated**

Bureau Jeugdzorg Zaandam requested placement of two of their pupils. A four-year-old boy and a 16-year-old boy. The four-year-old had seen his father kill his mother with a knife. Both his brother and he had been placed in a foster family, but this placement ended for him because he was aggressive. The suspicion was that, apart from his trauma, there was more going on and the foster family indicated that they could no longer accommodate him. The 16-year-old had spent two years in the Hoenderloo group and had 'completed his treatment'.

That 'being treated to the end' meant that there were other children on a waiting list within Hoenderloo Groep for which the institution received more money. Apart from that, at Hoenderloo Groep they received money from the Zorg In Natura (ZIN) of which the rates are many times higher than the rates from the Personal Budget, the PGB.

## **Costs**

Both boys were placed with me at almost the same time. For the youngest there was already a PGB available, for the oldest one it still had to be applied for. At that time there were still two applications pending for children in the emergency shelter. A PGB application took three months in total. Anyone who has ever worked with an abacus in nursery school understands that with two PGBs (Marcel's PGB and that of the four-year-old) you cannot pay rent, electricity, clothing, salaries of employees, food and everything else that the care of four children entails.

## **Skippering**

I discussed this with the guardians of the children and the employees of the Care Office. Realistically, we were getting €500.00 too much per month for the 4-year-old.

Literally, the guardians from Zaandam said: Use that €500.00 that you have too much of him per month for the other boy placed by us, then at least you have something. That this is fraud, believe me, I have never thought about it for a second or stopped to think about it.

In the meantime, the application has been sent out for the other two children.

## **The out-of-home placement**

About a month before this happened I got a call from the court. There was an appeal in connection with the Out of Home Placement (UHP) of a 15-birthday boy quite intelligent. This boy had ODD and was aggressive towards his parents and sister, skipped school and in every way fit the image of a child with ODD. Parents had not agreed with the out-of-home placement and fought it.

In the meantime, the boy had already been placed at Glenn Mills, a re-education camp for derailed youth run by the justice system.

The Glenn Mills method was controversial and after several incidents in 2009, this American method was discontinued and continued under the name 'The Sprint'.

The judge had stopped the hearing to let the lawyer inquire with me whether there was room in our emergency shelter and to inquire how it would be paid for.

It was a short conversation because the suspension only lasted 15 minutes. Of course he was also welcome and that same afternoon he was brought by his father and his lawyer. He was angry at the whole world but he was approachable. I went for a walk with him after his father and lawyer had left. I asked him to tell me about Glenn Mills and he told me terrible things. For example, he was an AJAX supporter and had to stand up in the institution during the match, with his

hands resting on his knees that had to stay touching, sitting with his back to the television. The entire match. During the break he had to clean the toilets.

Two times forty-five minutes in that position while the rest of the group and group leaders watched the match.

I made arrangements with him. At the time, we regularly went to an AJAX match or training with the groups and I could use that support of AJAX well in my dealings with him. I suggested that he go back to school and that I would visit him every day in the emergency shelter to hear how things were going. Moreover, he could call me 24 hours a day. Within one school year, he completed two school years and obtained his diploma.

However, he was also a boy who sought boundaries. Rewarding good behavior, taking him seriously, making everything discussable but also indicating boundaries and taking measures if he crossed them. A month later he was in the stands at AJAX for good behavior. Within one school year he completed two school years and obtained his diploma. After a year and a half we were able to let him live at home again with supervision once a week and eventually let him go.

Of course he sometimes crossed boundaries, but he had to, otherwise he wouldn't learn anything.

**At the station they were sitting with a 12 year old autistic boy who had to go to a crisis place. The alternative was sleeping in a police cell for Christmas.**

The second financial issue was the costs for the children. Within a short time, the emergency shelter was full. Four children lived there permanently and there was a turnover among the other places. Children were registered by their parents, by the Youth Care Office, BJZ, but also by the Council for Child Protection and even the police in Brabant managed to bring a child on Christmas Eve because things were no longer going well at home and the Youth Care crisis service was not available. For example, I was called by the police in Breda on Christmas Eve. At the station they were sitting with a 12-year-old autistic boy who had to go to a crisis place. The alternative was to spend Christmas sleeping in a police cell.

**Always ready**

Sometimes a child would come for a month to bridge the admission to a mental health clinic, sometimes for three months because the parent was ill or had an operation. However, they were always children with autism or behavioral problems. I always placed all the children who were registered. Whether they went to the emergency shelter, went on the weekend or vacation stays, needed help or guidance at home or at school, my team and I were always ready, twenty-four hours a day. There were no waiting lists.

## **Exorbitant fees from the Youth Care Agency**

In return for that care there was a minimum income. This while Care in Kind (ZIN) or a Personal Budget (PGB) had indeed been requested or issued for these children. That money was received by the Youth Care Offices. I discovered that the Youth Care Office sometimes received 5 to 12,000 euros per month per child for their pupils and there were still a number of things that I had reservations about.

## **Whistleblower**

Time to sound the alarm at the relevant ministries.

I asked Donner and Rouvoet questions, the SP put Rouvoet on the spot during the evaluation of the Youth Care Act and asked him, among other things, how it was possible that Friends of Tom in Almere did with very little money what he could not do with all his millions. Also, at that time there were approximately 1300 children in a closed setting while they had committed no criminal offence.

These children did not attend any school, did not participate in sports, were allowed to see their parents outside the gates for an hour a month if they were lucky, but were searched when they returned.

I have seen children who chose not to see their parents anymore because they saw the search as the ultimate humiliation.

Due to the actions of 'Misplaats' and others, and due to a threatened charge of violating children's rights, Rouvoet and Donner were forced to remove these children from a closed setting.

Their solution was as brilliant as it was disgusting. They put up different nameplates and the word youth PI (penitentiary institution) was replaced by youth institution.

After all this, there were still some questions left. Bit by bit, partly due to the loose lips of people internally at the relevant ministries VWS and Justice or via other channels including the management of the Youth Care Office, my questions and suspicions were confirmed. When a child is born, it automatically ends up in the system of the Ministry of VWS. At the moment that a supervision order (OTS) or out-of-home placement (UHP) is pronounced, the child in question is automatically transferred from the VWS system to Justice.

Together with the child, a one-off bag of money is sent to Justice (a kind of administration fee) and from that moment on, Justice receives an x amount of money every month for that child, depending on where the child is placed, whether there are behavioral problems, etc. The amounts are between three and fifteen thousand euros per child per month. In 2017, 48,000 children were placed outside the home and 32,000 children were placed under supervision.

Children are therefore nothing more or less than a profit model. More about this in the next chapter.

In the meantime, I was emailing and calling myself silly. The number of children brought to me by the Youth Care Office, judges and the Child Protection Council increased by the day. The number of parents who were assisted by my staff to prevent their child(ren) from receiving an OTS or UHP took on worrying proportions.

As presented by No Kidding and the Ministry of Health, Welfare and Sport, every parent was a potential child abuser until proven otherwise.

Imagine being a parent and especially a parent of a child with a disability. Unfortunately, 10 years later, the same thing is happening. The unjustified reports of children being abused are getting out of hand. And everyone, from the window cleaner to the postman, is being prompted to look inside families.

Even children are motivated to do this with their friends.

Some members of parliament were not amused by my actions. The threats that were already there, but had decreased after Elsevier had taken over No Kidding, increased again.

Reports came in everywhere. At BJZ that I was abusing my children, at the Fire Department that the safety in the daycare was not in order, at the landlord of my office that children were sleeping in the office, at the Healthcare Office that I was committing fraud, and so on.

Of course I could prove and disprove everything, but I spent all day chasing after everything.

# CHAPTER 5 – CHILD AS A PROFIT MODEL

OPGEJAAGD



DOOR DE OVERHEID

-KIND ALS VERDIENMODEL

2009 and 2010 were tough years for both my employees and myself. We took care of the children and took them to stay overnight during all the holidays and weekends.

It often happened that children arrived just before the weekend and had to stay overnight. It also happened regularly that I was called at night because a child was driving the parent(s) to despair.

## Powerlessness

Once I picked up a parent with children at 3 am. Mother had been taken from the railway by the police, her children with behavioural disorders were at home. They were asleep and had no idea of the desperation their mother was in. The police called me because they did not know what to do with the family. I went to pick them up in the middle of the night. The children went with the groups to Center Parcs that weekend, the mother stayed with me. The helplessness, frustration, waiting lists and not being taken seriously as a parent became too much for many parents at that time.

It was time to sound the alarm, things were getting out of hand in Youth Care.

It was fantastic that we took care of all the children but there was hardly any money coming in to pay all the costs

I emailed the people responsible for dramas like this, I sounded the alarm wherever I could, I went into BJZ offices that were behind on payments, I once went into a CIZ office on a Friday afternoon at 4:00 PM and refused to leave until a solution was found regarding the surrender of care for a child they had been working on for 16 weeks. It was arranged within an hour. It was fantastic that we took in all the children but there was hardly any money coming in to pay all the costs. I received an email back from politicians and also Mrs. Rita Verdonk: "How nice that there are people like you who can offer these children a safe place. In politics we do everything we can to....and so on.... In reality, but I only now realize this, they didn't care at all.

#### **Parliamentary questions**

As already described, I was discussed during the evaluation of the Youth Act in 2009 in which Agnes Kant (SP) asked the ministers Rouvoet and Donner of VWS and Justice respectively how it was possible that I could do in Almere with a few thousand euros what they could not do with all their millions. Also the website GeenStijl about this. The answer never came. The cabinet fell in early 2010. I gave interviews, participated in programs, was nominated for Helpende Hollander, helped schools with their 'difficult' children, helped parents at home to make and keep it liveable, took care of my own children and fought as if my life depended on it against all those agencies to ensure that I could continue to look after the children. I also made sure that all the children in the shelter could go to school and had something to eat and could pay for everything. However, I also had to keep the agencies on my side so that the children were referred to us instead of to the juvenile detention center. I had a golden team.

Thanks to their flexibility and their heart in the right place, we were always able to help all children immediately.

#### **Rouvoet and the rights of the child**

In the meantime, I had been fighting for years with the Misplaats Foundation (now defunct) to get the 1,300 children who were wrongly in juvenile detention out of prison. These children had to go to an AWBZ place, but there was none, so these children were locked up. (An AWBZ place is a treatment place for children with autism or psychiatric problems). Due to the hard work of Misplaats, Minister Rouvoet (Christian Union) had to change the law regarding the violation of the rights of the child.

#### **Children wrongly imprisoned**

These children were therefore subject to a prison regime. I had not actively done anything for Stichting Misplaats since I had set up Vrienden van Tom. Behind the scenes I took in children who had to go into hiding. Helped by some

media who, behind the scenes, did their bit as far as they could, we made sure that the guardians of these children had the Out-of-Home Placement (UHP) removed and the children were free again. Sometimes it was so intense and unjust that we had to help parents build a life across the border until their children were adults.

### **Innocent children branded as criminals**

I dug further and discovered that children with an OTS or UHP were 'transferred' from the computer of the Ministry of Health, Welfare and Sport to that of the Ministry of Justice. Was it really meant that the children with a UHP with me, the children with a Supervision Order (OTS) or those 1300 children who were rotting away in the youth prison without school, sports and their family that those children were a profit model and wandered around the justice computer as criminals?

Yes, so.

### **The confrontation**

I started confronting the guardians. Asked them if they knew that thousands of euros were being paid for their ward. I soon received a phone call. Most of the children in my emergency shelter fell under Zorgkantoor Amersfoort and Bureau Jeugdzorg which had an office in the Overschiestraat in Amsterdam. I no longer had to call the guardians, everything concerning the children placed by them now went through management. I spoke extensively with that management of course and explained that we had to turn every penny to be able to give the children what they needed and that they had nothing to worry about in slick offices with expensive lease cars. I was fobbed off, they played on my emotions. They knew that I would never allow the children to go to the juvenile detention center with us.

It was either choke or swallow.

# CHAPTER 6 – MY ARREST

OPGEJAAGD



DOOR DE OVERHEID

-MIJN ARRESTATIE-

2010 and 2011 were disastrous years. I was done, had to be operated on, my son was 11 by then and you couldn't leave him alone for a minute.

The emergency shelter was full and children kept coming. In short, someone had to join me to run the Foundation so that I could get some breathing space and the tasks could be divided.

## **The new colleague...**

That became Saskia Moesbergen and together we started the VOF Onzichtbaar Anders. I had already received the offer to work together from Desiree van Doremalen and also from my accountant Rob Assenberg who had come up with a 'construction'. I am not really into constructions and I did not want to work with Desiree (call it intuition). More about Desiree later in this book.

## **And away new colleague...**

Not even five months after Saskia started, she also said goodbye in tears. The accountant was at that conversation. The combination of work and family was too much for her.

Saskia deregistered from the Chamber of Commerce and I was on my own again for.

### **New colleague with a double agenda**

A few months later it turned out that Saskia and her sister had started their own business under the name 'Zussen in zorg'. She approached my network, employees, business relations and my accountant also turned out to be her accountant. After she had deregistered from the Chamber of Commerce, KvK, she withdrew €5000.00 from the business account without consultation a week after that deregistration, I did not get the company laptop, company telephone and other things back and it turned out that she had paid for the company car, a Ford KA, and had put it in her name. Also without consultation. The accountant was surprised about the cash withdrawal.

It turned out that he was there. Saskia also demanded a settlement.

So you step into a company that has been around for years, help out for a few months, fire an employee (Rebecca Albers) on the spot, and then want half of the company. Of course I didn't agree to that.

### **Farewell to the accountant**

After a conversation with the bookkeeper I decided to throw him out and that same day I contacted an accountant. He immediately indicated that the administration was incorrect. After a lot of back and forth phone calls, lies about whether or not, where and to whom the administration had been delivered I had no choice but to hire a lawyer. This lawyer held the bookkeeper liable for all damages resulting from the non-delivery of both the business and my private administration.

### **Hi UWV**

Early 2011 I dutifully reported to the UWV that I would receive income from the collaboration with Saskia. Up until that moment I had received full WAO in connection with Post Traumatic Stress Disorder (PTSD), asthma, COPD and recurrent cancer.

I worked mostly at home and when I went outside it was never just because of PTSD. It was always completely demarcated, wherever I went, for safety and also not to burden my children. It was agreed with the UWV that I would report my income for 2011 at the beginning of 2012. However, at the beginning of 2012 I did not have access to my administration because the accountant refused to hand it over. I also dutifully reported that. Despite those reports, it later cost me a conviction for UWV fraud.

### **Threats, false reports and vandalism**

After Saskia and the accountant left, I was threatened several times by telephone, my son's bedroom window was smashed at night, my

car covered in scratches. Of course I reported this. All kinds of bullying became my lot.

False reports to the municipality about fire safety in the emergency shelter. I immediately asked for an inspection by the Fire Department that same day. Everything was in order. Then a report to my landlord of the office that children were sleeping in the office, that was not the case and I could prove that. A report was made to the Youth Care Office that I was abusing my children, but I had been working with those people for years, they knew better. And then another report was made to the Care Office that I was committing fraud. They were aware of that, after all, I had permission to shift PGBs so that I could help and accommodate all the children and all accountability, as well as the intensive PGB checks, were approved. And also a report to the Health Care Inspectorate, they came to look and check but everything was more than in order. Only much later, when I was already in detention, did it turn out that at least the report to the Care Office came from Saskia Moesbergen.

In consultation with the new accountant, I personally requested a book audit.

(It was later denied that such a request had been made.)

I just kept on muddling along. My team worked harder to relieve me. In the meantime, I had met my ex-boyfriend and was in a relationship. Instead of energy, that relationship gave me even more stress. Blinded by love and barely paying attention to the world around me, I didn't see what was happening. I survived, kept on running. Fell from one misery to the next, both with my children and the children within the Foundation. I put out 'fires' everywhere, went on vacation and tried to recharge a bit of energy, came back and ran again.

### **Emotionally I did what I could but it wasn't enough**

My daughter dropped out of school for medical reasons and had to be admitted to the rehabilitation center because of meningitis that had been passed and the after-effects of this. She was also molested at the age of 8 and severely traumatized as a result. My son was nebulized electronically at least 3 times a day because of severe asthma, I underwent a major operation, had pneumonia all the time, the weekends had to be scheduled for the Friends of Tom Foundation, the emergency shelter continued to operate as usual, my boyfriend turned out to be an alcoholic and had girlfriends, the accountant kept ringing the alarm bell about the incomplete administration and in the meantime contact with the PGGM (the health insurer) and the Tax Authorities had also become a daily ritual. Emotionally I did what I could, but it was not enough.

### **Just go ahead**

Phone calls came in from parents. They had received a letter that they had to report for questioning. After all those false reports, I was not even surprised and I called the Social Investigation Department, the Police, the Ministry of Health, Welfare and Sport and asked them what was going on. I told them that I had heard from parents that they had to report for questioning, that I was going to Turkey to get married (my boyfriend had been in a drug rehabilitation center in the meantime and had stopped drinking), that about 100 children and supervisors would be following me and that I would like to report if anything was going on. The answer was: "No, Mrs. Brinkerink, just go ahead. If anything happens, we know where to find you."

### **To my appointment**

On Friday 12 April 2013 I got into the car. On the other side of the street were 2 men, 1 with a camera. Details that you normally don't notice but the street was always quiet so it caught my attention. I had an appointment and had bags of clothes that were too big for me that I wanted to drop off at the Salvation Army right away. I also had €5000.00 cash with me for the groups with children and to pay for the bungalows where they stayed for the weekend.

The house was now full of men wearing bulletproof vests, the street was cordoned off, they were standing in the garden, on the roof... everywhere.

Before I even drove away, I was cornered by 3 cars. My door was pulled open and both my boyfriend and I were arrested on suspicion of fraud with PGBs. My daughter, who had just finished rehabilitation, was inside. We were also taken inside. We had to sit on the couch and hand over our phones. My daughter too. She was crying and completely panicked.

The house was now full of men wearing bulletproof vests, the street was blocked off, they were in the garden, on the roof... everywhere. There was an assistant officer and an assistant judge and I was refused to let my lawyer call me. That would come later. I kept repeating that that would happen immediately, tried to stay calm and eventually she was called. I was not allowed to speak to her myself.

It was reported that I had been arrested and would be taken to Zwolle.

We were taken away in two separate cars.

To Zwolle, where I was interrogated for the first time that same day and 'confessed'.

# CHAPTER 7 – DETENTION

OPGEJAAGD



DOOR DE OVERHEID

-DETENTIE-

The large iron roller shutter opened and the car I was in with the three men wearing bulletproof vests and armed drove through a kind of tunnel. There was another door in front of us. At that moment I became afraid and my memory is a black hole until the cell where they locked me up. I remember fragments of the first two days. I seem to have spoken to my lawyer, but I don't remember that anymore. A doctor seems to have come because I was in a terrible panic, but I don't remember that either. The control over the post-traumatic stress disorder (PTSD) was gone in an instant and it struck mercilessly.

## I had confessed

What I do remember is my first interrogation. Not completely, but the moment when the two people who interrogated me from the FIOD and the Social Affairs and Employment Inspectorate asked me almost cheerfully: "Don't you feel relieved?" To which I replied, bewildered: "Why?"

It turned out afterwards that I had confessed.

What they saw as a confession, however, was for me something that the Health Care Office, the guardians of the Youth Care Office, the people I had contact with in politics, all parents, in short everyone, had known about for a long time. With permission, I moved the Personal Budget between children in order to be able to help all children and pay all costs. And that...is fraud.

## **Penitentiary Institution**

All this time I was under the impression that I would simply go home again. The opposite was true. After the weekend I was transferred to the Nieuwersluis penitentiary institution. The women's prison.

Nieuwersluis PI consists of two parts. The remand prison on one side of the complex and the prison for those already convicted on the other side.

## **Humiliations**

When I arrived in Nieuwersluis I was first searched. It was disgusting and I felt very ashamed. I had to pee in a jar while the guard watched. The possessions I had with me were written down and I was told that I was being held in all restrictions. All restrictions mean: no media (newspaper, radio, television), no contact with fellow prisoners, no visits and no telephone contact with my children.

That's how I spent the first two weeks of my detention. For an hour a day, guards took me to a kind of cage underground with only a grid through which you could see the sky. It was also called "luchten".

There I could sit on a plastic pouf for a while and breathe fresh air. Until the judge decided that the restrictions could be lifted, I was alone without contact with the outside world. That lasted two weeks.

## **I went to write**

At the end of April of that year I was supposed to get married in Turkey. Until the morning of the day on which that was supposed to happen I had hoped that it would still go ahead. I lived completely in my own world. I didn't eat, I didn't sleep, I didn't speak. The only thing I started doing on the advice of the guards was writing. (see the chapter 'Detention, the diary')

## **The interrogations**

I was interrogated almost daily. Even when I was in all restrictions. One of the things I remember is whether they asked me if I missed my children. Every minute of the day I felt like my heart was being ripped out. The loss was terrible. There was a kind of proposal. If I just cooperated then I could call my daughter. I had nothing to hide so I agreed. I was not allowed to hold the phone myself and my daughter was not allowed to ask me when I was coming home because then they would disconnect the connection.

**All I could think about was that child who had been uncertain for days about her mother's whereabouts.**

They called and my daughter answered. I heard her voice and of course I broke down but kept my head up. Shirley however started crying immediately and her first question was: "Mom, where are you, when are you coming home?" I told her that I didn't know but that it probably wouldn't be long....tootootootoot. The man with the phone in his hand had hung up. The only thing I could think about was my child who had been uncertain for days about where her mother was. My daughter, the girl, who finally got her mother on the phone and then immediately lost her again. How cruel can you be? In retrospect it is pure child abuse. The girl (then 15 years old) had just come out of a rehabilitation center, had to go to hospital for her 12-

birthday autistic brother, had seen her mother being taken away to God knows where and was completely distraught. The actions the interrogators were taking were disgusting.

### **The tabloid press**

My lawyer came every week. Sometimes several times a week. She kept me informed of what was happening outside my justice hotel, had partly taken care of the children, closed my Facebook hermetically and did what she could to keep me calm. The newspapers were full of the 'millions fraud' that I had supposedly committed. They wrote about the houses, cars, foreign bank accounts and boat that I supposedly owned (nothing was ever found in terms of assets or money and that is not possible because I had none), the media rang all my neighbours in the street for interviews, my son was followed by the media all the way to school. There the school and the police finally intervened.

The Telegraaf published a photo of my friend with all the money on his stomach that he had posted on Facebook. But that was Dominican money, pesos, hardly worth anything and a few dollars. It was blown up a lot in the newspaper.

I found it much worse that my daughter was on the cover of the Saturday edition. I was furious.

Later I asked the Telegraaf for clarification about that. The answer was: "If this serves the public interest, we also publish minor children and what is the problem. There is a bar over her eyes, isn't there?" Imagine, you are 15 years old and you are portrayed as a criminal in the largest newspaper in the Netherlands. On the front page. I still get angry about it.

### **More humiliations**

There were court hearings. My lawyer filed requests for adjournments so that I could be with the children. They were denied. Every time I went to such a hearing I was taken from my cell to a waiting cell and searched before I left the building. I was then locked up in a mini-cell in the van that took me to the court. At the court I was locked up again until I was taken to the judge. After such a hearing the same thing happened in reverse order. Back at the PI I had to undress again to be searched. These searches also happened after each visit that had taken place. Sometimes

you spend a whole day in a van or waiting cell at the courthouse just to be with the judge for twenty minutes.

### **The regime**

Panic attacks due to PTSD were constant. In detention I broke my foot, cut my wrist, took an overdose and many times I was placed in isolation to protect myself. I also panicked when I had to be 'transported' to the court. At a certain point they knew this and it was taken into account. The rules were handled a bit more flexibly and the guards left the hatch in the door open or sometimes even the door ajar. I lost a total of around 70 kilos in detention, that was the only positive thing. I can't remember much of this either.

### **The interrogations**

What I do remember is that during every interrogation I indicated that I wanted to file a complaint against my old accountant Assenberg and that during every interrogation I stated that I have PTSD and could not explain it properly under the circumstances.

If you have PTSD, you cling to a (sometimes false) sense of security to avoid that panic and survival instinct. I also get a kind of tunnel vision. For example, I see people talking but I don't know what they're saying. I hear it but it doesn't get through to me. My explanations didn't make sense. Sometimes I reacted reflexively. For example, I refused to explain the disorders and problems in the families in which those children grew up. As far as I was concerned, that fell under medical confidentiality. Not that they were bothered by it. At my office, they simply confiscated all the files. When I got them back much later, they were no longer complete. Half of the files were missing, but what was especially striking was that they had just messed around with them. There was no logic in ripping those files.

### **Witness statements**

My lawyer came with files. They contained witness statements, the charges and copies of everything that had happened up to that point. In that file I read that my old accountant had tipped off the FIOD, that Moesbergen, my ex-partner, had reported me to the Healthcare Office and much more misery. My lawyer received emails from victims of the same accountant. A letter was written to the Public Prosecution Service.

Written by Saskia Moesbergen but signed with another name, a friend of Saskia. Both were interrogated. Saskia denied it, the other indicated that Saskia had asked her if she could write the letter in her name. The other, it turned out later after interrogation, did not know that the letter to the Public Prosecution Service had been sent in her name after all.

There is one thing I will never forget. On 19 July 2013 there was a preliminary hearing. The media was well represented at the invitation of the Public Prosecution Service. That much was already clear. On the same day the case against Joep van den Nieuwenhuyzen was heard. Back in my cell that evening I watched the news. Nothing was said about my case but about Joep's. Joep himself also spoke after the hearing. He said laughingly that he would appeal to a higher court, possibly to cassation and then to the European Court. You saw him get into his Bentley and drive away. At that moment I no longer understood anything about the legal system.

The next day, the day after the hearing, my case was broadcast on TV.

### **My children**

It got dark and it got light. The days crawled by. I lived from visit to visit. Then I saw my children again. Nothing else matters. In the meantime I went to 'work'. For 0.78 cents an hour screwing together screws and other mind-numbingly stupid work. I got into a fight with the foreman. She treated us like dogs so I refused to go there anymore and spent whole days in my cell. I still didn't eat and my condition got worse and worse.

My son was doing okay but my daughter was bouncing from address to address. I felt so terribly sorry for the children. They were so well behaved during visiting hours but felt so alone.

### **To eat**

There came a time when transfer to the prison hospital in Scheveningen was imminent. The panic attacks, not eating, sitting apathetically in my cell took their toll. My fellow prisoners, but even more so the guards, 'saved' me from that transfer. I didn't eat because I didn't want to eat, but locked up in that cell I couldn't do anything. The guards made an appointment with me. They left the door open and if I ate then they would make sure I got a job in the department as a cleaner. They sent me with stones in my pockets to the Medical Service where I was weighed every day and checked whether I actually ate. After a week the door opened in the morning and I could start. Out of that cell from morning until half past four in the afternoon.

### **In release**

In October 2013 there was another hearing. During that hearing I was suspended pending the substantive hearing of the case. I was allowed to go home. The same day the children came home and we received a phone call from friends in Turkey that our tickets were ready. Less than a week after leaving prison I flew with the children to Turkey for a week where we celebrated son's birthday. He turned 13.

Once home, daily life resumed. Parents of children I was caring for contacted me. I helped some children again immediately. There were also parents who were angry. Rightly or wrongly, I understood them. There were regular conversations with my lawyers. The hearing dates for the substantive hearing of my case were set for 1 and 4 April 2014. Everyone was convinced that I would be acquitted. After all, so much had gone wrong.

### **The 'evidence'**

Wiretapped conversations in the criminal file had been manipulated or not correctly reported, witnesses had lied under oath (I was able and still can prove this), the administration was not complete, the FIOD and the Social Affairs and Employment Inspectorate both had a different outcome in terms of administrative investigation and I found the complete administration of 2008 in the shed (while I had been charged from 1-1-2008), and so on.

The errors in the criminal file did not stop there.

The worst thing in that period was that the Public Prosecution Service had leaked my criminal file. Parents received letters from the Health Care Office with anonymized pieces from my criminal file and newspapers wrote about the content of what was in the criminal file. So my criminal file was on the street.

Placed there by the Public Prosecution Service.

### **See you this afternoon, champs**

The hearing days were on 1 and 4 April 2014. The verdict was on 18 April and that day I went to the court in Utrecht, relieved. That day all the misery would come to an end and they would have no other decision than to acquit me. The lawyer had asked the court to declare me inadmissible and in fact they had no other choice. At home I reassured the children and said goodbye. With a: "See you this afternoon, champs" I walked out the door.

Full of good cheer and singing I drove to the court. The session flew by. I barely listened to the Public Prosecutor. I had never heard so many lies as she conjured out of her mouth, even at Goede Tijden Slechte Tijden.

Finally, the judge gave his verdict. Twenty months, six of which were conditional, minus pre-trial detention, and no professional ban.

We were shocked. My first reaction to the lawyer, still in court, was: "Just file an appeal immediately!" We left the courtroom and once through the door we were met by the media. While we were talking, I was addressed by the public prosecutor's office police. "Mrs. Brinkerink, the

I'm sorry but you have to come with me. You are not allowed to await your appeal in freedom."

### **The bullying**

Within two hours I walked into PI Nieuwersluis for the second time to be locked up. My second detention was just like the first one hell squared. At home the children had collapsed I heard and there was no room in the prison so I went back to the house of detention. The bullying of the Public Prosecution Service started. They cleverly used my PTSD and panic attacks.

No matter what the guards did to help me, decisions from above simply had to be carried out. For example, they stopped my phasing, my son was denied access to the PI after three hours of travel, my leave was revoked because of relatives (there were none, of course), I was forced to attend education under penalty of no more visits, among other things (thanks, Mr. Teeven!). Once I had been tested, the Justice Department refused to pay for my training as a Public Prosecutor (!). I was also not allowed to spend my leave at my own address and much more of this harassment.

### **Hopeless situation**

On the day my daughter turned 18 in August 2014 I was allowed to go on leave for the first time. As long as there was no date for the appeal there was no chance of release or phasing (leave and to an open ward), I had heart problems, lost a lot of weight again, the children were doing badly, I was convinced and not only me that I would go out horizontally instead of vertically. An offer came from the Public Prosecutor. If I would withdraw my appeal she would do that too. My situation was hopeless at that time. The appeal could take another year and the children and I would go under. I asked my lawyer what the possibilities were to continue with my case if I would indeed withdraw the appeal.

### **Novum**

She said that review was possible if there was a new novum. A new novum means that things come to light that the judge could not have known at the time of the verdict and if he had known them, a different decision would have followed in his conviction. Since I did not have a fair trial, I decided to withdraw the Higher Appeal and go for the review. Immediately after the withdrawal, a date was announced that I would be released early and I was also allowed to phase directly into a semi-open prison. After 7 months in prison, I left Nieuwersluis for the last time on 11 November 2014.

My prison sentence was over.

# CHAPTER 8 – DETENTION, AN INSIGHT

OPGEJAAGD



DOOR DE OVERHEID

-DETENTIE, AN INSIGHT-

## Detention, an insight

Around the bag with stuff I had to hand over went a small brown card with my name written in large letters, my date of birth and the word VIOD. I asked what VIOD meant and was told that it was a tax department. So it meant FIOD. I was also given a number: 8645732 and it was explained to me that that was my detention number. When I asked if that would also be tattooed on my arm, I was looked at angrily.

## Interrogators from the UWV

I wasn't very nice the first few weeks. If I didn't have a panic attack, I would resist. I saw everyone as my enemy. During the interrogations, I stood my ground and many times I made the interrogators angry. Once I was interrogated by employees of the UWV. My lawyer was there. I wasn't allowed to talk to her during the interrogation, but we spoke without words. They were hellish. The next day my lawyer came and said: "Girl, respect! You showed them every corner". I have never experienced those two interrogators as horrible as they were.

### **Yvon, we see a completely different woman here than the one described in the newspapers and media.**

After a few weeks the restrictions were lifted I got to know the PIWIs (penitentiary workers, guards) and other prisoners a little bit. Every now and then a PIWI would come up to me and ask how I was feeling, ask questions about my children who I liked to talk about and about all those other children. Pure interest from them and I appreciated that very much.

At one point one of the PIWIs came to me and said: "I have fifteen minutes to spare, I'll get you out of your cell and then we'll have time to chat." The first thing he said was: "Yvon, we see a completely different woman here than the one described in the newspapers and media." I tried to tell him as much as possible about the Foundation, about how things were said about me but that it could never be about me, about all those children I missed so much, about how I had committed fraud but especially about how I felt screwed by the government whose children I had always taken care of for a tip and often for nothing while they circulated bundles of money.

### **The PIWI and the objection**

The PIWIs approached me differently than others. More friendly. They stuck to the rules but always had time to chat or made time. One of the PIWIs came to me at one point and told me about her autistic son and her PGB application that was going through a hassle. "Yvon, I am breaking all the rules, but would you like to look at it?" she asked me. My brain worked at lightning speed. I weighed the pros and cons against each other, after all, I was here on suspicion of PGB fraud. On the other hand, I was suspected, had not been convicted. I told her to bring the documents and read them. That same night I wrote an objection for her and told her to submit it to the Youth Care Office the next day. A few weeks later she let me know that the objection had been granted.

### **Unreal**

The phone rang. I saw it was Shirley on my screen. I picked it up and said, "Hey sweetest daughter in the world, how are you?" She immediately started screaming. "You're not my mother anymore, you stole money from children and you left your own children home alone. I'm hanging up now and I never want to hear from you again, I hope you rot in that cell" I screamed her name but she was gone. Hung up. I called back. Completely panicked. Screaming. I saw her with her little brother sitting at the table at home. No one with them. I woke up completely distraught.

### **Hopital**

Instead of calming down I ran to the intercom. It was noon, I had fallen asleep from sheer exhaustion during the day. I pressed the intercom button and asked if I could please call my daughter. The answer was: "Tomorrow during recreation you can." Then the lights went out. I went completely crazy. Threw everything around my cell, kicked everything I could kick and broke my foot in two places.

Only hours later, just before locking up for the night (then your door or hatch opens briefly and they say at half past four in the afternoon "Have a nice evening and good night") the PIWI asked what was wrong. I started to cry and said I couldn't walk anymore.

He came into my cell and looked. Made a joke about not running away I'll be right back and left. Within five minutes he came back with four more men.

"Yvon, don't be alarmed but we'll take you to the hospital by taxi because your foot doesn't look so good" I didn't need to be handcuffed and after a trip to the hospital I came back. In a cast for the next few weeks.

**Mom, the Telegraaf newspaper said that you were wearing two different shoes in court and that you were confused**

Once a month it was mother/child day. In a separate room set up for children you could see your children for an hour and a half outside the regular visiting hours. The PIWIs were present in civilian clothes. Tom couldn't cope during the regular visiting hours so he came once a month for an hour and a half. I lived for those days. An hour and a half with my children. We drank and chatted a bit, we did crafts and a photo was always taken immediately.

It was printed twice. One for the children and one for my cell. The weekend after I broke my foot was Mother/Child Day. My daughter looked at my foot and said: "Mom, the Telegraaf says that you were wearing two different shoes in court and that you were confused." I calmly told her that I had fallen and broken my foot and therefore could not wear a shoe.

**They were young and deserved a life without all this**

After that visit I went crazy again. It wasn't my week, so to speak. At that point I hadn't withdrawn my Higher Appeal yet and some 'joker' told me I could get five years. I could see the children's faces. I could see them crying after Mother/Child Day and my brain was working overtime. In the wrong direction. I didn't think I could do it to my children to go back and forth for so long and be confronted with my detention. They were young and deserved a life without all this.

I was at it for a good fifteen minutes before I succeeded. The blood was squirting in all directions.

In a fit of madness I cut my wrist. I was now on night check (which meant that I was checked every two hours and had to give a sign of life) and was given Diazepam three times a day, but afterwards it was clearly not enough. I waited until the night check had been done, wrote my letter to the children in the meantime and when the PIWI had come by for his check I started cutting. I had taken apart a razor blade with which I did that. It didn't work right away. It took me at least fifteen minutes until I did. The blood was spurting in all directions. I lay in bed and thought it was fine. I was at peace with it.

### **I woke up**

What I hadn't counted on was the guard who I had politely wished a nice evening but who, as I heard later, didn't leave me with a good feeling and decided to walk by again half an hour later before the end of his shift. He was completely shocked. He immediately raised the alarm and I woke up from the fuss on my arm. There were ambulance staff applying a pressure bandage.

The next morning my children were waiting at the prison gate. But mom didn't come.

Meanwhile, the harassment continued. Small things but also important ones like the application for leave to attend my son's birthday. That was rejected because of 'surviving relatives'. There were no 'surviving relatives' because I was in prison for fraud. That rejection was done by sliding a note under the door of my cell. I could no longer call my children in time because we were already locked up for the night, as they say. The next morning my children were waiting at the prison gate. But mother did not come. Again my lawyer appealed.

This time against the harassment in connection with the leave and not being allowed to stay at my own address during that leave. The objection was thoroughly explained but a new leave application took another two months.

If I had to describe everything, it would be a book in itself. It was terrible in detention, but despite everything, I also laughed a lot and made friends for life. I know that some PIWIs follow me on social media and it is partly thanks to them that I left prison alive. My lawyer Marjolein Dikkerboom also plays a huge role in this, as do some of my friends. They have always stood by me and still do.

# CHAPTER 9 – DETENTION, THE DIARY

OPGEJAAGD



DOOR DE OVERHEID

-DETENTIE DAGBOEK-

## Detention, the diary (Longread)

From 15 to 22 April I can't remember much and I didn't keep a diary then either. The only thing I know is that I was forbidden all contact with the outside world, I wasn't allowed to have contact with other prisoners and I was constantly completely upset and panicked. I was allowed to call the children occasionally on the mobile phone of those who interrogated me and where they were present. This diary was written in detention and also shows how far I had gone. I had lost all reality.

## Newersluis April 22, 2013

8 days before our planned wedding, 10 days without seeing Ramon and the children, 13 days without eating and 1 day before where I could have been and where I would marry Ramon on April 30, 2013.

It was not meant to be. Because of a couple “born way too late”, both Ramon and I are stuck and the children with supervisors at home. How sick do you have to be and how much do you have to hate someone? And then also dare to say that they stand up for the interests of children. What goes around comes around. That is a promise.

### **April 23, 2013**

Interrogated today. What a lout that Rob A. Again indicated that he wants to file charges against him and Saskia M. We are getting married in 7 days. That is the only thing that keeps me going, the rest is no longer important. Tomorrow morning meeting with my lawyer and maybe back home on Thursday, where I belong. 14 days without eating and "still standing". Occasionally dizzy and tonight tried to eat something but it came right back up again just like last week.

### **April 24, 2013**

Today in a week I will have a different last name. Then we will still be sleeping, wake up together and enjoy (or have a hangover), look for the children and go away with the boat or otherwise into the mountains.

This morning I had a talk with Marjolein. She is convinced that I will be free tomorrow at the latest the day after tomorrow. Today I have not eaten for a total of 14 days.

How long can you go without food?

### **Evening 8:15 pm**

And then suddenly you snap. Every minute of the day I think about the children, Ramon, my company, supervisors and especially how that will work with Turkey and our marriage. Marjolein couldn't tell if that would go ahead or not. She would call Glenn tonight. She has no contact with Mike and Peter. What if I'm not released tomorrow? What if? I have now lost eight kilos. I try to eat but I can't. If I have to stay here, do the children have to come and visit here? My God, that's just not possible! And all because I had blind faith in the accountant, that much is clear to me now. B has called in sick. Stressed out, I heard from Marjolein. Would they all turn their backs on me because I was so stupid and naive? So many people are the victims of the way they want to provide care.

The intentions were good, the execution was bad. God, let it be 9:00 so I can get my medication and sleep. Tomorrow by this time I'll be home or my life will be over. Tomorrow I have to go to court.

### **April 25, 2013**

D-Day. Will I see the kids and Ramon today? So exciting this. No sleep all night, nothing to smoke.... It can't get any worse than this.

Afternoon 5:45 p.m.

Finally back in Nieuwersluis. 9 hours on the road for 10 minutes court. No food (I don't do that anyway, it's not bad), no drinks and no cigarette.

Sitting in a 3 by 3 cell for hours, panic attack after panic attack.

7:20 p.m.

Luckily I got a lot to smoke at once. I'll hear tomorrow morning whether I can go home or not. The demand is 90 days. I heard the same for Ramon. I haven't heard anything from the children. I did see a lawyer in the cell at the court. I would call Marjolein when I got back to Nieuwersluis but I was back too late. I heard that there are more incriminating statements against me. I don't have to ask where they come from! If it is true that I have received 920,000 euros?? In my account in the last 5 years, then that has been taken care of too! If I am privately assessed for that 920,000 euros, then there is still something to settle with the state.

### **April 26, 2013**

06.15 hours. Eyes open and think: God, how I love them! I know that you can miss your children so much, but this is inhuman. Soon, no idea what time, I will hear whether I can go home or get 90 days extra. I have slept at most 2 hours with pills and have been thinking about Turkey all night. Would the groups leave today and if so, those of tomorrow too and if so, will we get married on Tuesday? It is almost impossible, so much happiness in 1 day.

You'll be here tomorrow but your dreams may not! If I still be here tomorrow, my soul is not.

9:10. Still no news. If it lasts much longer I'll die of a heart attack instead of PTSD.

10:10. Ramon added 30 days, me added 90 days. Bye bye wedding, bye bye everything.

In the afternoon the restrictions were lifted and I no longer had to air out in a cage with 2 guards. I was allowed to talk to fellow inmates and call the children etc etc.

### **Saturday April 27, 2013**

Sleeping is getting less and less. I just sit at five in the morning pulling apart cigarettes. Made the last bit of coffee. Coffee gone, sugar gone, tea gone, milk gone, cigarettes gone and a fridge full of food that I can't do anything with. Yesterday I tried to eat a sandwich and it came out again. Last night I fell asleep from sheer exhaustion. At two o'clock I was awake and I turned over again. At five o'clock I woke up crying and in a panic. My first thought was: Where are the children and Ramon until I realized that I wasn't home and they aren't here. I'm so terribly tired. Showering and getting dressed takes half an hour and then I'm done. No more energy. Yesterday all limitations suddenly disappeared. I was allowed to "pleasantly" go out with the group in the pouring rain. You can choose whether you go for half an hour or an hour

airing. After five minutes I had had enough. I ran into the psychiatrist again, who wanted to talk to me. I asked what I should do with him. He said: Express your grief, to which I indicated that I wanted to go back to the cell. The answer was: I will visit you again in 2 weeks. He can save himself the trouble! The only advantage is that I can call now that the restrictions are off. Too bad I don't have a phone card, they will arrive again on Wednesday. The only people I want to call are the children. I miss the children so terribly. So much grief, so intense... I can't and don't want to do this anymore. This is so unfair and so inhuman.

9:45. Panic attack and incredibly sad and broken inside. One moment I think: Von, stay strong, it will be okay, the next moment I think: I'm going to end it. It feels like I'm being torn apart inside. The thought of the children and Ramon is driving me crazy. The sad voice of Shirley and Tom on the phone this week made me so sad. It sounds bad, but then you better not talk to them out of pure survival for myself.

I just can't deal with it.

End of the day...Today I was persuaded to go out for some fresh air. It actually did me good. Of course, a lot of curious people and big tears when I told them I would be getting married in three days. Even more tears when they asked if I had children and where Ramon was now. With the children? To make a long story short, it did me good to talk about it with others. Back in my cell, the blow came. Really the most terrible panic attack I have ever had. To the point of black eyes from crying, vomiting and panicking with fear. Two guards came to sit in my cell to talk. After the conversation, they left my door open and I was allowed out of that cell. The rest just stayed in their cells. The guards were clearly bothered by it. They asked me if they could do anything to help me. I asked them for my medication to help me sleep, but it was too early. We talked for a while about the children, the accountant, getting married and especially about my fear because of that PTSD.

Cup of coffee later and letters written to the children, Glenn and Ramon. It is the first time that I notice that the guards are concerned about you instead of just doing their job and thinking "figure it out" and it did me good. Until 8:00 PM they came by every hour to check on me and ask if I needed anything. So sweet. A little compassion did me good. Now that I am writing, the final of next pop talent is on. I now remember why I never watched and will watch. So I still have to smoke, brush my teeth, take a pill and hope that I sleep longer than three hours. I miss the children so much. This must never happen again that we are torn apart like this. Where are the rights of the child?

**April 28, 2013**

5:15. Nice time again. Luckily MTV is on TV and they play really good music until half past eleven. Furthermore, I have an itch and red spots everywhere. My neck and forehead in particular itch terribly. I have heard others talking about it too, so it must be the water. I wash my clothes in shampoo. You hear stories here....1 Woman has been caught with twenty-four credit cards and another has been in jail for six

weeks because she stole a laptop at the Mediamarkt. Both from Romania. Furthermore, many Antillean, two Turkish women and a few Eastern Europeans, junkies and vague women. Every now and then one of the guards comes to the door to have a chat. They are quite interested in my story and one of the guards has had big problems himself because of his accountant. There are two of them here who are real louts. Both are women and also have the appearance of a camp guard and really pay attention to everything. I had a great discussion with the other one. He is showing off his power but also very interesting, I want to go to the children. I want to watch a stupid movie and I want to clean up forty empty glasses and rubbish, wash piles of bath towels and grumble about Shirley and Tom. So off to church with me... I have something to say there.

#### **April 29, 2013**

I give up, I don't want to anymore. The suspension request will not be processed for another two weeks and even then that will not say anything about whether I will be released or not. My body and soul are finished. I cannot live with this pain. Every minute I see the faces of Shirley and Tom in front of me and every minute I die ten times. The guards say: Von, go eat, be strong. They know my story and know that we were supposed to get married tomorrow. They do not understand that I still do not eat and that I am also unable to eat. They come with yoghurts and fruit but if I swallow something it comes back out immediately. It is not unwillingness. I hardly sleep at all anymore and panic after panic attack all day long. Too little medication to sleep and actually too little of everything.

#### **April 30, 2013**

It is so quiet inside me, I have no words for anything. Today we were supposed to get married at 13:00.

#### **May 2, 2013**

Yesterday I received the new report and I was so angry. What monstrosities Saskia Moesbergen and Rob Assenberg are with their witness statements. Fortunately, the new accountant Piet made incriminating statements about Rob Assenberg. That statement is invaluable, just like those of two others. I was shocked by Ramon's statement. The way he reacted to what he saw on television. I hope he doesn't believe that (I didn't see it myself, but it wasn't all that pleasant). Even Marjolein has been on television as the suspect's lawyer.

#### **May 3, 2013 3:30 AM.**

What a mess! Just woke up completely upset again.  
Heard myself screaming for the kids. Crying, spitting and wide awake.  
Yesterday all day "worked" on the report. Conflicting statements,

lies...they will soon choke on their own lies and contradict each other. Furthermore it seems a lot but what I don't understand is that no one has thought of doing that bookkeeping. Next lawsuit is one against the state. Everything we have received short for all those children of the Youth Care Office who were taken in and were barely paid for and all children with too little or no PGB are claimed back. If we maintain the AWBZ rates I think I will claim two million. Marjolein will come again soon. Tomorrow Glenn and Kevin are coming to visit with the children.

#### **May 4, 2013**

Good and bad news. Bad news is that Ramon is on the front page of the *Telegraaf* with a sick story. Good news is that more victims of Assenberg have come forward. Same practices. Lost house, bankrupt company and drama in those families. Piet B also cooperates.

Super statement made and no lies. The children and Glenn are coming to visit soon so I am terribly nervous. I have received a phone card here so I can call the children and I will do that soon.

18.00 Hours. Shirley, Tom and Glenn visiting this morning. Lovely to see them.

Tom cried a few times and said that his father and a girlfriend spoke very badly about me. Shirley also cried for a moment but is so terribly strong. She said: Mom, we will deal with them the way they dealt with us. The children are indoctrinated by the press. Photos of them are placed in newspapers, their names are mentioned and all the channels cooperate. From the *Telegraaf* to the *Volkskrant* and from the NOS news to Boulevard. They all have something to say and again it is clear from where it comes. In the interview in the *Volkskrant*, Rebecca Albers' name is simply mentioned, while she has been banned from speaking by the judge. She will also have her turn!

#### **May 5, 2012**

Today I was not allowed to go to church. I was refused because I did not fill out a form on time! As if I know that you have to fill out a form for that.

#### **May 6, 2013**

I refused the blood test and I changed cells. I am now in a cell with someone. We dropped a glass. In two days we will get a vacuum cleaner, then cleaning the cell is on the schedule. Two more days of walking through the glass.

#### **May 7, 2013**

Bullying, bullying and bullying. Last night my wrist was bent in half when I climbed onto the bunk bed. I was in a lot of pain all night. Pressed the intercom at seven in the morning. I had to find out, there was no one on the ward yet. Pressed the intercom again at 9:00. I was asked: Are you going to keep whining? You can get paracetamol and then just wait until you are called by the medical service! I did not get that paracetamol. At ten o'clock I was called to the medical service where there was no doctor present. I put a bandage on it (no sling) and I will go to the doctor tomorrow. I did not report sick but there was still a sign on the door saying that you have no recreation and are not participating in the program and I was also not allowed to call my lawyer. 1 hour to air out and then back in the cell for twenty-three hours.

### **May 10, 2013**

Tired, sore, just done! RTL news about AWBZ fraud. Where would they have locked him up? Not here. I haven't run into anyone yet.

### **May 11, 2013**

Fainted. The pain is too much, I can't live with it. No children. What else is important? Nothing more!

### **May 12, 2013 Mother's Day**

The children are coming to visit with Glenn and Kevin and then again on June 1st. Still haven't heard from Ramon. Does he really believe everything that was on television and in the papers? Does that say something about his trust in me or is he just as broken as I am? Shirley sent him a letter and a card and said that he does have a phone card. Yesterday I fainted in my cell. Today I haven't eaten for almost a month. Tomorrow Ramon and I would have been together for two years. Shirley keeps saying: Mom, be strong, you are a good mother and the best in the world but in the meantime the children have to visit their mother in detention. Nice mother! I can't stand the thought that I might be here for months. Then the children are better off without a mother than a mother they have to visit in detention. Poor Tom and poor Shirley. We don't deserve this. The children grew up with the idea that everything you do from your heart is good and that you should always help others if you can. Now they see that you are punished if you help someone else. The children have been through so much and now their mother is gone. And for what again? Should I have taught them to be selfish then?

### **May 13, 2013**

Today Ramon and I have been together for two years. I still haven't heard from him. I'm slowly dying here. Big fight with my Romanian roommate. She stole everything she could from me

stolen from each other. From cigarettes to perfume and if I'm not careful she'll steal my extensions from my hair too. Got a really nice letter with pictures from Shirley, really sweet!

### **May 14, 2013**

Tomorrow court case or tomorrow visit? Exciting day today. This morning at half past six a big fight with my roommate. He stole and hid my cigarettes, bent tweezers (how childish can you be) and lied to the guards about everything. I use my locker for the first time. Not that it makes sense because you can open it with a work card. I'll have to talk to the guard later and ask if I can change cells. Either she gets out or I get out otherwise there will be a fight and I don't feel like it. I hope for good news later and then go to court tomorrow and go straight home. That would be the best scenario. Working like this until 11.45 then at least I have some distraction. Marjolein is back from vacation on Thursday so I can hardly imagine going to court tomorrow. I've heard that miracles do exist, I'm ready to experience one. I'm trying really hard to survive here but I don't think I'll succeed.

### **May 15, 2013**

No court then. Kevin, Glenn and Shirley came to visit today. Court was cancelled because Marjolein is not back from vacation yet. She will be back tomorrow. Changed cells again. I am alone in my cell now, what a relief. In a different group but it will be fine, this group is also quite nice. My new address: Pi Nieuwersluis, RA 51

### **May 16, 2013**

Just spoke to Marjolein. She gave me the letter Shirley sent to the court (my god, what a chick that Shirley), two emails from people who were also cheated by Assenbergen and an email from Esther. Haven't heard anything from Ramon.

It is possible that he was there for the suspension today. My appeal for the suspension is on Wednesday 22 May at 10:00 in Arnhem. Being alone in the cell is nicer now, although I have a lot of panic attacks again and I cry a lot. A few more days and then I will know more. Furthermore, the bullying by some guards continues, the rest act normal. There are three very smart ones here!

### **May 18, 2013**

Spoke to Shirley briefly on the phone this morning. She told me that Glenn wrote me a letter and Merijn and Shirley themselves also sent me a letter. Yesterday I spoke to the Youth Care Office about Shirley and school.

Nothing else to report. Went outside for an hour, sent a letter to Ramon and Marjolein and cried, cried, cried. Just read the emails Marjolein gave me

about the other victims of Assenberg but I'm still here so what does it matter? Apparently nothing for justice. Except for a few people, nobody cares that our family is apart.

### **May 19, 2013 1st Pentecost Day**

I won't do it anymore. If I'm not released on Thursday I'm going on a hunger strike. It's impossible that all this is possible in the Netherlands. Are we a banana republic after all? I've lost my family, my business, everything. The children are wasting away and are dying of grief. I'm convinced that I've lost them and I can't take it anymore. It's all so unfair. Visiting hours are changed just like that, I'm locked up like an animal all day long, one hour of air per day, others decide when I can call and see the children. I adapt to that one hour of air per day, the other twenty-three hours I die forty times an hour. What and how must the children not feel then? I feel so lonely but I'm an adult and can put things into perspective but they can't. I have to put Ramon out of my mind to protect myself. I'm dying from the uncertainty that he won't get in touch and won't let anyone else hear from me. To be honest I don't understand Ramon at all and I don't care, I don't even want to know anymore, I think I already know the answer. Too bad he leaves the kids like that, they can handle it. This afternoon I wrote a press release and authorization for Marjolein. I'll give her everything the day after tomorrow to prevent things being read when I'm on hunger strike that are nobody's business here. I have nothing to hide but the things I've written here are just private for now. I don't know how bad it's going to get and how far it's going so it's better if everything is gone. Shirley, Glenn and Merijn are coming on Tuesday so it's going to be a "nice" day although I think it's very stressful and hard for Shirley to come and visit me here. On Wednesday I'm in court and on Thursday I'll go home or protest. It's gone on long enough now. If I've committed fraud then there are a few people missing in the cells next to me and if my family and business are being deliberately destroyed then it's my duty as a mother to make sure that the Netherlands knows what's going on and that it certainly wasn't my "idea". When my kids and I go, they come with me, even if it's the last thing I do!

### **May 22, 2013**

Went to the appeal for the suspension in Arnhem. On the way back I "dropped off" people in Nieuwegein where Ramon is. Received sweet letters from the children.

### **May 23, 2013**

Didn't sleep and it's eating me up with nerves. Now I just have to wait until 2:00 p.m. It's already a quarter to seven so I'm making good progress. I've written letters to the children and I sincerely hope I can give them myself later. 11:45 a.m. I haven't heard anything yet. I

was just thinking how great it would be to sleep in my own bed tonight. All those prayers here by everyone have to be answered (what a shitty word it has become) someday.

4:00 p.m. Shirley on the phone. Request denied. Shirley completely devastated on the phone. Sad thing that I have to hear this from my daughter.

#### **May 24, 2013**

Cried all day. At half past three Marjolein came with the news that Ramon is free. Then I could only cry harder.

#### **May 25, 2013**

02.45. And yes, awake, wide awake! They'll be bringing paracetamol soon.

My eyes are closed and blue from crying. It still hurts. Drinking cappuccino now, listening to music and reading letters from the kids and Ramon (received yesterday) for the fortieth time. I am a bit calmer but still want to get away from here to my family with screeching tires. I hope Ramon will come with the kids tomorrow, then we will be together for the first time since April 12. The power will be off here from about 5:30 am all day. No TV, radio, hot water and no hot food for my fellow prisoners.

05.50 hrs. Bang, everything off. No more power and within five minutes my lights went out too. Massive panic attack. After a few minutes I pressed the intercom. They already know about me here and there is a good one working the night shift so he was there within five minutes with paper, envelopes and coffee. He comes to check every half hour and if there is anything I can press the intercom straight away. It's going to be a tough day today. 1 hour of airing and 1 hour of recreation, no radio or TV, that leaves 22 hours.

I'll stop by Daisy's in a moment. She missed me for a few days and asked if she could go to my cell. She was allowed to and she was crying with me yesterday and gave me a hug.

She is a really sweet girl with just a lot of bad luck in her life. She is feeling bad herself but has been encouraging me for days. We also share everything and lack nothing. This week she baked pancakes for me and she uses my Burberry when she has visitors or has to go to court. They were delicious, those pancakes. I absolutely refuse to eat here, I don't want anything from the justice department. I occasionally eat a sandwich with spreadable cheese, that's it. What a mess. In the middle of a panic attack and then get flashbacks. Where in my head are the children, Aruba and all the other fun things? I don't see them. Help me and get me out of here!

06:30. The day shift is about to start. My eyes have nothing to do with the rest of my body anymore. I can barely open them. If only someone could do something about that image, think about it too. It's fun when nothing is wrong, then you "see" the most idiotic hilarious things, but when you're as far away as I am now, that's disastrous

for yourself and your functioning. It is partly part of the PTSD and I can deal with that reasonably well, except for that image thinking and the flashbacks afterwards. And those are the biggest killers right away.

It also depends a lot on who is on duty at those moments of panic. Some do everything they can to piss you off even more. It's typical that it's the women who work here, the men are actually all great. These women are poorly educated and show off their power. Not all women by the way. There are a few who are super.

I hope Tom can go home now that Ramon is home. Tom is with his father. Fortunately, Tom has a strong opinion of his own and can clearly indicate what he wants and what he doesn't. BJZ and his father will think differently about it. His father was already complaining about the child benefit. For 6 years, the man has paid 53 euros per month. Never a pair of shoes or pants or just anything on his own. He even forgot Tom's birthday last year and now he's afraid that Tom will cost him money. Luckily Tom has more than enough clothes. Luckily Tom is already twelve and has a say in where he wants to live. I think he chooses to go home, I would like that too! Pffff seven o'clock now....time flies when you're having fun!

Tomorrow Ramon and the kids are coming to visit.

The tattoo Shirley designed is coming. On my foot!

#### **May 26 08.30 am**

Two more hours and then I'll see the children and Ramon. I'm already shaking on my legs and have had my first crying fit. Two more hours, the visit starts at a quarter to ten. I'm about to succumb to a heart attack or something.

12:00. And they're gone. Our family was together for an hour and I didn't even cry, I'm making progress. The blow came when I was back in my cell. There I screamed my head off in misery. I want to go home with Ramon and the children so badly, just so badly. Tom was very sad. He's keeping it together but his face speaks volumes. Shirley is afraid that we'll soon have no house and no food. Big worries for such young children. And I see it and can't do anything for them. It's terrible to see your family leave here. They'll be back on Wednesday and then they won't be there for ten days.

Then there was a fire here in a cell fifty meters away because of an exploded microwave. Too bad it didn't burn down here too. So again putting letters on the mailbox for everyone during recreation. That lasts until half past four and then that door closes again until tomorrow morning 07.45. Then the new week starts here yohohoo.

Bram is coming to visit on Wednesday.

#### **May 27, 2013**

Had a tough evening and night. Crying, screaming and furious I was but above all devastated by grief. Even those damn pills don't work anymore. I saw it become two o'clock and was drinking coffee at six o'clock and of course I woke up crying.

Half the night I lay brooding over Tom. The little man is so sad. It is half past seven now at a quarter to ten we are "allowed" to air. Another day in paradise! Sometimes I answer the television. All those commercials and especially the ones of "you really need to get away". That would be nice indeed. It makes me furious. It is a miracle that this chair is still intact. I could go to TRA (reducing recidivism activities) but I politely refused. There is nothing to reduce because I have done nothing. The probation service will also come, no idea why, it must be standard procedure.

**May 28, 12:25 p.m.**

Today I will get my first report. After work the door opened and Jermainy and I could walk up the stairs to our cells. Just as we walked up the stairs Ilse called the foreman: Hey so I turn around and ask who do you mean with your HEY? I am not your dog. You are not allowed to walk through until I say so was her answer. No, that door will open automatically Ilse, I don't know but it opened in the control room since we don't have a key! Yes but I am the boss here... pffff. You all shout something different here, maybe take a communication course! Then I walked through to my cell and closed the door. They are really crazy here, do I look like a dog or something? Another incident earlier that morning was that the same Ilse threw something at me. Throwing is strictly forbidden and she was the one who threw it. I asked if that was normal and if I could throw it at her too. Of course I got the answer that it was not meant that way. Nobody throws things at me I said and what you give you get back. If I had thrown something at her I would have gotten 3 days in jail. I am so sick and tired of all this bullying. I think they just want me to go wild but I don't want them to have that fun. And to make the day complete I was called to the consultation room after five minutes of airing. Really happy because I thought it would be Marjolein. When I enter the room it is the ministry and the FIOD and I was interrogated for the next three hours.

May 29, 2013

Slept from 11pm to about 6am this morning. At a quarter to eight out in the pouring rain. I didn't really want to but the next time I can go outside is in twenty-five hours so better now. Maybe a bit of fresh air will do me good. It's 9.45am now. Ramon and Shirley will be here in three quarters of an hour.

11:30. Hopeless this. Saying goodbye after the visit is heartbreaking.

Fortunately, the children are allowed to come on Sunday from half past nine to eleven, then I can see Tom again. Then it is mother/child day. It is always the first Sunday of the month. The more I write things like this, the sadder I get.

Maybe I'll be here for another two years or so. Sometimes when I'm "very far away" I think I just shouldn't have any visitors or contact with the outside world. It hurts so much that I can't take care of the children myself. In the evening I almost got into a fight with one of the other prisoners here about making a phone call. She thought I should just wait. I was so pissed off that I even thought about just throwing her down from the ring. Guard Tom came upstairs, told her to hang up NOW and go with him.

Called home and calmed down a bit. Tom is a hero. It's stuck in the name.

**May 30, 2013**

Today Ramon has a meeting with the Youth Care Office. Shirley wants to go back home. I am curious how it will end. Together with Glenn and Kevin it should work out. Writing letters tonight. I still have 1 stamp but the girls here still have some.

When I wrote the above, I fortunately didn't know the rest of the day. In the afternoon I was interrogated by the UWV. Fortunately Marjolein was there. Not that she was allowed to say anything, but it felt better emotionally. They were two enormous louts, they made me so terribly angry. I already know that I will be interrogated again next Wednesday by the ministry and the FIOD. It is now 9:15 PM and I almost choked on my pills. Jesus, that can make you feel anxious. Of course I wasn't allowed to call Ramon about how the conversation with the Youth Care Office went. I hope Marjolein can tell me tomorrow. Just had a huge crying fit. They keep pretending that I have become filthy rich through my work. How can you want to become rich on the backs of sick children? Then you just start a mushroom farm or something! If I had wanted to become rich I would have stayed in the events industry. Isn't there anyone who thinks? I was arrested in a thirteen year old car and a negative balance on my account of €2000.00. I think they are working through some kind of checklist that you are guilty but what if you are not? The word alone, they are doing truth finding. They should have found that truth right away when

, everything is geared towards it

Assenberg and Moesbergen came with their "witness statements".

Maybe it would be better if I didn't leave my cell at all. The longer I'm here and the more often I talk to other prisoners, the more depressed I get and the worse the mental pain is without my kids. I haven't eaten anything today. I just didn't think about it and I still don't feel hungry. That disgusting bread with spreadable cheese is starting to get to me more and more. On Monday Marjolein has a talk with Ramon, Glenn, Kevin and Mike and again I won't be there. Again I'm powerless and can't do anything. Are we celebrating Christmas as a family this year? Both Ramon and the kids have birthdays before then, so I might not even be there. Maybe it's even better not to write anymore. I don't want to anymore, I have to go home. I want to sleep so badly and switch my head off for a while. At least I can look at photos and read letters. That's better than no photos and no letters. Marjolein will be there early tomorrow morning. If she

I'll stay in bed until the kids come on Sunday. I only get up to call the kids and Ramon for six minutes during recreation. I don't need to see those rotten heads here anymore. It's better that my world here is as limited as possible, otherwise I'll go completely crazy. You shouldn't be here, especially not with PTSD. I get palpitations when the hatch opens. The first time is at half past six in the morning. They also come to look at me at around nine o'clock in the evening and at night, and every time I'm already asleep I wake up and get stressed or start crying. Then the person who was looking has already left. I'm often still groggy from the pills, but not groggy enough to sleep again. Oh well, I don't need anything here anyway, who cares? As long as I'm here, I'm dependent on how the PTSD develops and I can't control it myself. I still want to lock the door every night, for example. That says enough. I shower at night if the hatch has been open, then I know that they won't come to see if I have slipped under the door for the next few hours. When I'm scared I fall back on 'safe' behavior. At home too, but then I can find my own distraction and here I can't go anywhere. It's a bit difficult to lock the shower door here, there is no door only an old dirty curtain and that's too small too. By the way, there was another fire here last night. Someone had put wool in the microwave. I'm going to go to bed now, it's better. I'm tempted to throw a chair through the TV here. Tomorrow will definitely be better!

Maybe I can go home then.

**May 31, 2013**

18:00. Marjolein was here at 9:30. We went through the UWV hearing yesterday and she thought I had done well. What jerks they were, I have never seen worse. The rest of the day was awful. Half an hour of airing and the rest of the time I lay in bed and tried to eat, which did not work. I think I see Ramon and the children far too little. The bond with my children is being damaged. I see Tom in particular too little. Shirley can come along every visiting hour, but sometimes I don't see Tom for two weeks. In about two weeks there will be another suspension request. It all seems so far away. I don't want to anymore, I want to go to my children, God let me go!

Sunday the children come to the mother/child day. They are allowed to come from 9:30 to 11:00 extra. What do you mean extra? It's really pointless. They should be allowed to come every day. What do you mean call three times a week? They are tearing entire families apart this way. You are already being punished (why again) and then the bond with your family is also reduced to less than the minimum. Sometimes I am locked up alone for twenty-five hours. It could probably be much worse, but in addition to the rights of my children, human rights are also being violated here. For example, I have not been allowed to file a report for 6 weeks.

Moreover, they leave us alone for entire weekends, we hardly get any normal food and sometimes they bark at us. I am not aggressive but have to control myself not to punch one of them in the face here. Tomorrow at 15.45 I can call home again... hooray!!!! Fantastic advice from one of the guards here to remove the photos in my cell. She said: maybe you will be less sad if you don't see them all day. Those photos are all I have here. Why remove them? Then

but sadness but then at least I still have the feeling that I am alive. Marjolein said that a whole team was busy. That may well be true but of course I don't notice much of it myself and I feel so damn alone here. Even if I can only be home for half an hour. Just the children around me, just tell them how much I love them and just be together with my family. Chatting, messing around, hanging out in the garden... half an hour should be possible, right?

### **June 1, 2013**

10:25. Money is not in my account so I immediately panic. No calling and no smoking for a week. Daisy came at 8:00 to ask if I wanted to join the gym but I was already completely upset because of the money that was not there. She said: Come on, that will take you out of it for a while Von. Told her that my money was not in the account.

Her answer: No problem, we'll order what you need. Then I had to cry even harder. Lale will let me call home in peace and quiet when everyone is in their cells. Thank goodness because it's like a chicken coop with all that calling, everyone is breathing down your neck. Fighting to get six minutes on the phone with your family.

Just spoke to Ramon. He was crying, so was I. He's afraid I'll get two to four years.

Bram is also being questioned I heard from Ramon. Shirley sounded happy on the phone. Tomorrow Tom and Shirley are coming.

### **June 2, 2013 Mother/Child Day**

Six o'clock. TV on and out of bed. Turn on that TV in the middle: It's so quiet inside me. Breathe in, breathe out, the kids will be here soon and then the light can go out again until next Saturday. Then Ramon and the kids will come again. I didn't dare to write it down at first but somewhere between awake and asleep I heard Ramon say: Von are you awake? I answered him. He said: Yes darling, what's wrong? Not a second later completely panicked, No Ramon. I don't even want to talk about the rest of the night. I have constant pressure on my chest and heart palpitations. As if I'm being chased.

16:00. The children have been there and I have cuddled and chatted with them for an hour and a half. What they had to say was less. After they had left, the light went out and that was a good thing. Suddenly they were there. They wanted to talk to me for a moment. I said that I didn't really feel like it but I had to. They had to assess whether they could leave me alone or whether I would be taken to the iso.

Arrangements were made and I went outside for a moment. That went wrong after ten minutes, I have never been so down. I was brought inside and asked them to please leave me alone. At 15:00 I was allowed to call the children and Marjolein when everyone was in their cells and I did so. Now I know what it is like to die, I only have to close my eyes.

### **June 5, 2013**

Haven't written for a few days. Completely out of this world. On the one hand because of days alone in my cell, on the other hand because of the stories from home and how things are going there.

When you don't know if it's day or night, when you feel like you're losing your family, what's the point of living? And for what? That's the worst of it all. If only I had stolen five million, then I would have a reason to be here. This is just sick.

I can't get used to it here. Luckily I'm now in a cell with Jemainy. He's as pleasantly crazy as a door, so since yesterday I've been laughing again every now and then. I'll be interrogated again soon. I'm so tired from those three days in the world that I wonder if I'll make it through that interrogation. Marjolein will be coming tomorrow and Ramon and the kids will be coming on Saturday, luckily. At least there's a little distraction in between. My favorite guard (not) is back. Watching me all day and nagging me. I was standing with my toes in Nada's cell. Uh... Mrs. Brinkerink, would you mind taking your toes out of that cell? If I ever meet them outside... Luckily she wasn't there when I was so exhausted. The "good guys" were on duty then, otherwise I would have really gone to the iso. With strict agreements, continuous checks, cell door open and the agreement that I would press the intercom for everything, I was allowed to stay in my cell with the warning that if I did not keep to even 1 agreement I would go straight to the iso. Yesterday psych in cell just when I was crying of course.

Mrs. Brinkerink, I heard you're not doing well. Yes, and what are you going to do about it do you think? Well, talking to you! I don't need that, you were supposed to come 3 weeks ago, you don't keep to the agreements as a psych so just leave!

So because I'm busy and a "week" late you don't want to talk to me?

Yes, that is correct. You are a confidant who does not keep his agreements and does not take the trouble to report it so... see you later! Okay, Mrs.

Brinkerink made his own choice and BAM the door slammed shut.

The girls here are amazing. They literally ordered everything I needed and came in as soon as they got the chance during the 3 days I was out of the world. They cooked for me and did everything to get me out of the cell.

16:00 Hours. Just been interrogated, it was okay, they were reasonable. The interrogation lasted from 13:00 to 15:30 and it was about all sorts of things. Then called home. Shirley sounded all cheerful on the phone, that gives the citizen courage again. They sent me letters so I have something to read when it comes in. How much can you long for mail?

**June 6, 2013**

Read the book "Half air" in one go. Really recognizable how the author writes about her time in the House of Detention. Apparently it is the same everywhere.

She was in Breda. Got a warning last night because we were laughing and singing. That's not allowed here either. We continued anyway of course and then our fave came

guard Tom to say again that we were making too much noise. He finished with: Did you hear me ladies? No Tom, tell me again? And laughing he started again. Tom really stands out from the rest. Always cheerful, never threatening, always friendly and as crazy as a door. If only they were all like that.

Ramon is being interrogated this afternoon. His lawyer is Marjolein's colleague. Klaas Arjan is a great guy and he came to visit me when Marjolein was on vacation so that I could get out of my cell and someone could visit in between. According to Ramon, I'll be home on June 24. So, eighteen more pointless days. I hope Marjolein will come soon. It's 8:30 now. Last night we rehearsed the new number 1 for the Public Prosecution Service: "They still haven't found what they are looking for" by U2. It's day fifty-six here. Fifty-six days have been wiped out of our lives. Just like that, because it's possible!

### **Friday June 7, 2013**

Marjolein has just been with mail and a letter from Bram and Glenn. Bram was short and businesslike, two lines (later I was told why that was). Glenn was a sweet letter, although I don't understand why he is angry with me. Then I told the guard that I am on the TRA list but that I am not going to call my lawyer. The TRA list is meant to call your lawyer or other agencies. He asked if I was going to call the Youth Care Office. No, not them either, I just want to call my daughter and son. On his list he wrote the Youth Care Office, gave me a wink and said: You can call upstairs now Von, there is no one there. It takes a while to find them, but they do exist... tnx Evert!

Called Shirley and after I hung up I burst into tears again. I don't want to cry all the time but when I hear them I completely break down, I can't stop it. With Ramon they are going for acquittal. With me it is a waiting game but every day I get is unreasonable. I maintain that I have done nothing wrong. Now more mail from the tax authorities about the VOF. That great accountant didn't do it either. He settled the matter anyway! One day I will walk out of here. Then I will definitely finish my task in this world but whether it is in ten or twenty years, there will come a day... The difference is that then I will at least know why I am in jail.

Jemainy is in court today. Her thirty days are up tomorrow and I think she's going home. I really want her to have the best of luck but I'm really dreading being alone or getting a Romanian cellmate or something. You get really selfish here too. Just pressed the intercom to ask if the hatch can be opened. Nobody wants a panic attack from me and within a minute the cell opened. This is wonderful. That 1 door can make such a difference. Soon airing from 12:45 to 13:45.

Beautiful weather now but we're definitely not going to BBQ. I want to go home so so so badly. I miss my boyfriend Tom and my miracle Shirley. I miss them so terribly that it is impossible to express the pain and sorrow in words. Because it is possible in the Netherlands.

Another thing I need to think about. The trial itself. I heard from Marjolein that the press will definitely be there. I'm going to start this week with my story in my words. If God exists, he will let me go home for the trial so I can prepare myself in peace instead of preparing myself while I'm locked up. I can't think now! Don't they get that? Don't they really get what PTSD means? That you have heart palpitations with every key, every sound, every time you hear voices, you constantly have the feeling of being chased and can no longer put things into perspective out of fear. That I'm constantly thinking about the image and see the most terrible things happening. No, they really don't get that here. Not even the psych. And how do you explain that? I think they see me here as an unstable wreck and they are prejudiced. Two days I have to take my sleeping pills at 21:00, the other 5 days they are brought to my cell at 16:30 because then there is no evening recreation, the department is empty at 17:00 and there is no guard anymore. Today the hatch can stay open because Jemainy is not here. How to prepare then? I survive here, that is priority number 1. Preventing me from losing myself and going completely crazy. I don't know anything about so many things since I've been here, it's one big black hole sometimes. Only when there is peace in my head can I do something.

Tomorrow a visit from the children and Ramon. I haven't seen Ramon for ten days because of that fantastic schedule here and of course there will be a warning because we are holding hands for example. After an hour back to the cell and collapse again. And then... it's Monday again. You are here aimless, useless and hopeless. At the mercy of a grumpy piwi because his wife may not have wanted sex with him for a week or a camp guard who enjoys teasing and threatening as much as possible. I'm craving sauerkraut with sausage. I'm craving something warm and healthy to eat. The tenth of April was the last time I had a warm meal. The only cooking I do here is out of anger.

### **Sunday June 9, 2013**

Yesterday Shirley, Tom and Ramon came. Tom is angry and sad, Shirley is devastated and Ramon looks defeated. They all have too much to deal with and I can't do anything. I stand there and watch.

Last night I was having a nice time in the cell with Jemainy until I got terrible pain in my chest, I couldn't breathe anymore and even talking was terribly painful. Tingling in my arm and I didn't dare move anymore. Jemainy pressed the intercom and asked for help. First a piwi came to look and about twenty minutes later the doctor was there. The whole time until the doctor arrived I thought: Now I'm going to die. The doctor gave me valium and put it down to stress (two days later it turned out that Ramon's mother had died at the moment I had that pain).

Just had a mentor meeting. We got to question 1. It was too intense for me and maybe for my mentor Sandra too. Was the first normal

conversation at the level I had here. I don't feel good. I wonder when this test here will be over and I will have "passed".

### **June 10, 2013**

07:00 Yesterday I tried to call home for an hour. No luck. I left a voicemail message to Marjolein about what had happened. We will hear soon if Jemainy can go home, then I will be alone again if that is the case.

10:00. Jemainy left at 09:45. Just received the message that Ramon's mother passed away.

### **June 13, 2013**

To court for the suspension. At 16:00 the message from the prison director that I was not given leave for the funeral of Ramon's mother. Ten minutes later a message from the court that I was suspended for a week and could go home until the twentieth of June. In between a new cellmate... a junkie! Sent home and my passport taken with me. What do you mean, a flight risk? Are they really that stupid?

### **June 20, 2013**

Let's make it all, all for one and all for love.

Back inside! Back in hell. The week at home went fast and what kind of week? All that sadness, the helplessness and the anger of the children and us. Ramon drinking again and off the path and it was going so well. Tom who takes everything "resignedly", Shirley angry, sad and rebellious and I no space for my feelings because I was constantly being pulled, everyone wanted attention and demanded it and forced it. On the other hand, it is also wonderful to see them and have them around me. Better this way than not and I understand it too. Pity, I feel deep pity for them. Ramon made crazy by his environment and shouts all day long that he is a loser, Shirley who does not understand it and Tom who only shouted: I want to stay home with you mom. The Youth Care Office demanded that I come immediately on Friday, Glenn and Kevin who are being unreasonable and Ramon who ran away and stayed away for a few days. Shirley who shouted at me and I took it all in resignation.

I tried to stay reasonable but I came back to my cell and fell asleep immediately the whole afternoon. Dead and dead tired.

Fortunately, there were also many beautiful moments. Spent two days alone with Shirley, went out for dinner and the confrontation with the outside world that was not too bad. Saw Ruud and Petra. Unfortunately, eating this week was also not possible. I have huge blisters in my mouth. I did sleep without pills. I did not have many panic attacks at home. I did not sleep much either, at most three hours a night except for the last two nights because I got medication from the

family doctor. No rattling bunches of keys all the time, doors that opened and closed when I wanted them to and just picking up a phone and calling for longer than six minutes. I did spend whole days in the garden, afraid to be inside. Fortunately the weather was nice. Too bad because things were going so well. Back to square one in terms of PTSD and maybe even further. The fear also rules when I am at home. So much stress at home too. The media that can suddenly be at the door. Shirley now to her father where she does not want to be. I cannot protect the children that is clear and yet I want to go home now.

Flight risk on June 13th according to the prosecutor and then sent home for a week with your passport. I have proven it, not a flight risk. Nothing has changed here. It feels even worse than it already was.

It is waiting until my head understands that I am here again and then I will break again. This morning I was woken up by Ramon, we drank cappuccino together, I said goodbye to the children completely broken and Ramon took me away. We parted in tears. He back to Groningen and I back to hell. Oh well, you write it and then you break too of course.

Marjolein is coming on Tuesday. I hope that the next suspension request will be processed quickly and that I can go home. The process itself, maybe I am too optimistic but in the end they will understand that I have done nothing wrong?

Fortunately I also spoke to my friends in Turkey. If it were up to them we would be there tomorrow and if it were up to me we would be there yesterday. I did have the idea that the house phone was being tapped but that is not so interesting. If they hope that I will say other things or have more to say than I did in the interrogations they can better waste their time and money on other things. There is nothing else, that is a fact. If you do not lie you do not have to remember what you said. It is good of me that that has always been one of the lessons I have taught my children. Even if they interrogate me all day long for thirty years, nothing else will come out of it.

I brought all the letters and photos back here, hung everything up and pretended I had never been away. This morning and last week feel like a year ago. I hope they'll make it back home. The only one I know for sure is Tom. Ramon and Shirley won't be able to hold out much longer. Oh and besides, no food for me here, they thought I wouldn't be back until tomorrow. Still no medicine to keep calm and they still make me feel like I murdered the prime minister. Requested a detention order today.

**June 21, 2013**

Today summer started. Gray, rainy, cold and alone. Yesterday morning I woke up at home with my kids. This morning I woke up in a bunk bed with a junkie under me. No coffee, no sugar, no food, no phone calls etc etc. 1

One of the piwi's just shouts: Good of you to come back Von. Well, why would I flee? Also because I helped people? In the beginning I still believed in the system (whatever that is) in the Netherlands. Now I think they are just messing around. There is one here for a month for stealing a toothbrush at HEMA and there is one gone after three weeks, he had robbed a jeweler. I sometimes wonder what you must have done to work here as a guard.....

My cellmate told me that I went on a rampage last night. Restless, screaming, crying and I woke up broken indeed. I feel like kicking that door out here. I have to write otherwise I'll go crazy. I'm so terribly angry. I hope they'll finish their investigation soon even though it's one-sided and they're hell-bent on hanging me from the highest tree. I think about it so often. If time could be turned back, would I do the same? Yes, but with a different accountant.

#### **June 22, 2013 08:00 AM**

Air, recreation, other things, none of it interests me. I leave my cell to call home and otherwise I lie in bed. Simply because I don't dare leave my cell anymore. At home I spent that week in the garden, even in the rain.

I didn't want to be in there, I don't want to be out here. I don't eat, but I do sleep with pills. My cellmate lies awake all night because of me. Yesterday I asked to speak to the director and called Marjolein. Medicines to stay calm, advised by the hospital, are still being refused. At a quarter to nine I am allowed to call home. I dream all day long of being with the children. Ramon... I love him but I don't want the life we had anymore. The drink is ruining everything and it was going so well. Those medicines... the junkie in my cell snorts Ritalin and I simply don't get the medicines I need. Just went to the medical service, pain in my chest.

#### **June 23, 2013**

Shirley and Tom have just been visiting. Ramon was conspicuous by his absence. Went out, priorities, I get it. I'm losing him. I feel it and I know it. That visiting "friends", going out, having fun and not being there for me and the children says enough. Loving is indeed not enough. He shouts very loudly that he will come back immediately when I can go home and that he will stop drinking immediately, but I have learned here that fairy tales do not exist. Sometimes it feels like a punishment to love him. Furthermore, I have just ended the fight with one of the piwis and am now back in jail. It is now 4:30 PM and the weekend is over.

Tomorrow at 12:45 I'm allowed to go out again to get food. I have to go home. I have constant pain in my chest, jaw, arm and attack after attack. I'm going to die here soon.

19:00. Doctor just left. Pain in my chest and jaw is unbearable and I have thrown my lungs out. Got two paracetamol and the message that I am exhausted.

### **June 24, 2013**

Nada asked if she would call Marjolein regarding medical care that I simply need. Marjolein PI called and fifteen minutes later I was called by the medical service. Still terrible pain in my chest, jaw etc. and spitting, spitting, spitting. They will let you know on Wednesday. I hope I make it!

Last night Ramon told me on the phone that he had indeed been out and that was why he had not come to visit. He cannot be home to take care of the children but he can go out all night. He had also posted on Facebook that he was happy to be living in Groningen again and to be near his friends. Not even five minutes later he shouts that he misses me so much and will come home as soon as I am free. I don't understand any of it anymore. I don't understand anything about the whole world anymore. How can you party and go out when your girlfriend is locked up, her daughter is home alone and with what money for God's sake? Sometimes emotionless but often frustrated, scared and in a lot of pain. The only thing I don't do anymore is cry, maybe that's why I have such a pain in my chest. God let that suspension come soon I really can't make it here. I still haven't been out of my cell and since I got back I haven't eaten anything except for two sandwiches that I threw up. Marjolein is coming tomorrow luckily.

In the evening I received another letter from the medical service stating that I would receive Diazepam twice a day to stay calm.

### **June 25, 2013**

Sleeping pills with Diazepam in combination with not eating make you nauseous and dizzy. It will probably be in the package insert but you don't get that here. Shirley. So sad during the visit, she looked so exhausted. Where is she now? With her father? Home? I have no idea and it's eating me up. Tom's face. Resigned. He's doing fine but he keeps asking when I can go home.

If only I could give him an answer. Luckily he's going on vacation soon. I hope he can find some distraction and have fun. Ramon. Where is he and what is he up to? Is it really like the old days again? Lying, not keeping appointments or am I completely wrong. I hope so but my intuition tells me something completely different. Sometimes I feel like ripping all the pictures off the wall. It hurts so much to look at them.

By continuing to read letters and look at pictures I remain aware of the fact that I have two beautiful children and I have to persevere.

### **June 26, 2013**

Called to medical service at 09.30 this morning. Blood test on Monday to check cholesterol and kidney function. Diazepam three times a day from tomorrow. It is not enough, the pain remains.

At a quarter past ten Ramon was there. I didn't want to cry but the knowledge that it will be ten days before I see him again makes me crazy. I probably won't see Tom at all before he goes on holiday with his father. Five weeks without Tom, two weeks without Shirley and ten days without Ramon.

Promptly two hours after Ramon left, pain in my chest, heart palpitations and feeling sick. They couldn't do anything for me except move me to a single cell, which offer I immediately accepted. Finally rid of that Ritalin-snorting junkie. That alone is a lot calmer. The other side is that I'm alone again now, so I probably panic more often, but whatever! I think I partly owe that move to Marjolein. I don't know how she does it, but she does. Shirley and Tom are calling tonight. I miss them so much, it's not fair what's happening.

At 6:00 PM I called Shirley. She sounded cheerful and is going to our own house in Almere tomorrow. I also spoke to Ramon and he was whining about the ING code. I have no idea why he needs it. I don't want to feel it but my intuition tells me that things aren't right with Ramon. He also keeps talking about his jewelry, he comes back to it in every conversation. Maybe I'm thinking too negatively but he's just TOO happy in Groningen for me. His story is that he's done with Almere and has his friends there. He also meets women I don't know, goes out all night and keeps talking about moving to Groningen. The only reason I would move is that everyone in Almere knows us and I don't feel like spending the next five years talking about what happened and defending myself. Everything is only about him. I feel so alone here.

Maybe I am not being honest and objective towards him now but I feel very bad about the stories he tells me. It just doesn't feel right! And then his battle with alcohol, let's hope he stops drinking again soon. It was only a short time ago that he started drinking again, maybe he will soon be off it and become the old Ramon again.

### **Thursday June 27, 2013**

And we start the day with Diazepam and the song: "There is always tomorrow" on television. Good to know! Tomorrow's view is another aimless, useless, hopeless day among the junkies, Romanians, murderers and morons here with a few exceptions. And yet some things remain vague. All day to think and yet I can't think clearly for long periods of time. Sometimes I start the day quite optimistic but it can just happen that I hear a song on TV or see a swan swimming outside in the ditch and completely collapse. I'm going to take a shower, maybe it will help. Suddenly I have to cry really hard. I want to feed those swans. I want to have water fights with Shirley and Tom in

the garden. Maybe I want too much and those things are no longer meant for me, too much has happened and it will never come back.

At 2:00 p.m. the probation service was there. She was stunned. Friendly woman. Next Thursday she's coming again. Spent the rest of the day in bed. Called Ramon at 16:00. He told me my office would be cleared on Tuesday. Seven years of work is destroyed and I wonder why. In God's name why??? Blood, sweat and tears...all gone. Discuss with Marjolein tomorrow. I hope she comes.

Today I've been back from suspension for a week. There's still no one here who understands why that was. Whoever you talk to, they've never experienced it. Not even that lady from probation. As quickly as that week at home went, it goes slowly here. I miss the children terribly. Tom with his enormous humor, Shirley with her quick answers. This afternoon I told probation about the kids. How I did everything I could for the kids and all those children with a disability. They're all doing great, but the price is high. I've never been separated from the children for so long. Even when I had an operation, I often left the hospital the same day just to be with the children. Today I also cried for hours during the day. Does that Diazepam really help... not! But what do you expect from two mg at a time on eighty-eight kilos? It's now 6:15 PM and I think I'm going to take my sleeping pill and go to sleep. I can usually think better at night. "In the afternoon and evening, that's just not possible, which is why I often worked at night at home. Tomorrow is another day. Another day in paradise. I'm looking forward. Gosh, I just heard about fraud in the state lottery, I thought it was crazy that I never won anything in twenty years.

### **Friday June 28, 2013**

Last night I was completely broken. Luckily I'm now in a cell next to Nada. She heard me crying and called me through the grille in the window. Asked what was wrong. I told her honestly that I would rather die on the spot than be locked up here for another half hour. Today she mentioned a double cell somewhere on the top left. She's going to try to get us placed in a cell together today. We shall see. Let's get some fresh air. 07:45, a nice time again.

10:00 p.m.

Aired for half an hour this morning and afternoon (airing twice on Friday).

Slept all afternoon and Nada cooked. Moroccan chicken. She also called Ramon for me. Nada is a cleaner so she can leave the cell all day.

When we call during TRA we are checked. They even stand by when you call your lawyer even though they are not allowed to. I called Marjolein and that lady from the probation service.

Later I was watching Snooky on MTV with her newborn baby. I can still remember when my children were born

were. Shirley after twenty-seven hours, a very small light girl of forty-four centimeters and 2600 grams and Tom via a caesarean section fifty-three centimeters and seven pounds. I sat there watching and completely broke down. The only thing I do now is lie in bed, sometimes sleep and stare at the wall a lot. The guard asked me if I wanted to watch out that I didn't reverse my day and night rhythm. Oh well, that's quite interesting too. The next twenty-six hours I'm in my cell so: who cares?

And why the hell do I watch MTV? Feels like I'm loosing my mind sometimes. For example, I'm watching tennis and then after fifteen minutes I wonder why. I hate tennis and I'm angry. Not just angry but furious! I feel like attacking someone. It's been eating me up inside for weeks, swallowing everything I want to say here, afraid of the ISO, afraid of three days of "jail", afraid of myself but now I feel like screaming, hitting and kicking the perpetrators of all this throughout the Netherlands. The only thing I hope is that I can hold back until the suspension and that I can go home at the next request. Seventy-eight days of our lives are gone, taken away and we will never get them back. In those seventy-eight days the kids lost their mother and we still have to see how we can get out of this and pull ourselves together again. In the last seventy-eight days I have lost everything that is dear to me including my companies, I was labelled a flight risk and a fraudster and my family has been completely dragged through the mud in the media. Who wants to live forever? I can't concentrate anymore and everything is mixed up in my head. What am I going to do when I get out of here for example? Will I still be able to take care of the kids? Isn't Tom better off with his father until I'm normal again and not afraid of everything anymore. What is the definition of normal by the way? In any case, no one is normal here, not even the psych. Or am I not normal? Are they right and I'm not?

### **Saturday June 29, 2013 07.00 am**

Woke up crying. The gloomy thoughts dominate everything. There is nothing positive anymore. Not for another week visitors and usually even more devastated with grief after the visit. Tom and Shirley not seen for two weeks. I did speak to Shirley on the phone for a minute and I had to fight for that too. The guards had to intervene against the Romanians and when that was over I had another minute to call Shirley. I have no idea how they are doing now. Even if I really did commit fraud this is still inhuman, I am dying inside. At 10.30 I have six minutes to call the children. I have written to them and they write to me too but it takes at least six days for their letters to arrive here. I am really depressed, I can't see a way out anymore. Every minute here is one too many. Better to close my eyes for good, I just really can't take it here anymore.

10:30 Just called Shirley and then Ramon. I had to cry so heartbreakingly, completely broke down on the phone. Spent the rest of the day crying in bed.

Five o'clock. Just as the piwis left Nada spoke through the grid. She asked why I was so upset and didn't leave my cell except to make phone calls.

Explained (as much as possible while shouting through a grate) that I was up.

Exhausted, knackered, in pain and immense sorrow. The last thing she said was: I'll pull you out of that cell tomorrow morning at nine o'clock to air it out, you're coming with me! The only answer I had was to cry even harder. If there is life after death, I'll fit in with this one!

The worst feeling is being torn apart. One moment I'm thinking: Come on Von, you're almost there (at least I hope so) just hang in there a little longer, the next moment I wish I wouldn't wake up. Everyone lives for July 19th but I don't think anyone thinks beyond July 19th. I dread life after July 19th, assuming I'll be suspended.

I worked all week with all my heart and soul. Was constantly fighting for all the kids against the Youth Care Office, Care Offices and against that smear campaign that has been going on for two years. In addition, Ramon did nothing but cause even more problems with his drink for the past year and a half. God, how did I keep it up and it makes sense that I am completely crazy here. What am I going to do when I get out of here? From three hundred kilometers per hour to a standstill. I often wonder how all the kids are doing. Especially the kids who are extremely vulnerable due to the home situation. I miss them all terribly.

I don't know who I was until I lost who I am. How can people look like angels but be the devils themselves?

Shouldn't we just go to Turkey if I get out of here as soon as I'm allowed to? I'm so lost. I'm so afraid that if I go home it will be like the week of suspension. Ramon who had no control over himself, was aggressive and drunk, the children who were in the middle of the misery again because of his behavior and myself who stood there and watched, unable to intervene knowing that I had to go back a few days later. Now is not the time to talk about it with Ramon but I know one thing for sure, I'm not going back to that life in which Ramon's drinking problem determined the day. Then I'll just have to be sad but I never want Ramon back. I don't want to be afraid of him when he's been drinking, I don't want the children to experience that, they've had enough to endure. Or do fairy tales really exist and can we do the unthinkable? Tomorrow we would have been married for two months.

In the meantime I'm pulling my extensions out of my head, it still hurts.

It's already 6:30 pm. Time flies when you're having fun. And then on the music channel on TV Mariah Carey with: I want to know what love is. Must be to make the party complete. It's a good thing I don't drink otherwise I would have had a drink now.

Another great song in terms of lyrics: Naughty Boy with Lalala. The name of the group says something completely different than the lyrics of the song. Is Ramon's new song and I don't know what to think of it. I do know that I would do anything to spend a day with my friends in Turkey. Their vision of things is so different from ours. I met all my best friends there

about fifteen years ago. When I was suspended that week, they practically begged me to come to Turkey with the children. I told Turker what happened that weekend that I was home with Ramon. The only thing he said was: That motherfucking bastard, how could he do that? And again I heard myself defending Ramon. Turker asked what had to happen before I was really done with it. He too has been through so much in the hotel with a dead drunk Ramon. A Ramon who hit me and much more. They tolerate Ramon because of me and were kind of proud of him when he stopped drinking. They believed in him again, just like I did. They were there when Ramon proposed to me in Turkey and would testify if he would stop drinking. For the time being, Ramon is now in Groningen (where he never came) and Shirley is everywhere and nowhere and other things seem more important to Ramon than his family. Am I too unreasonable? Jealous? Lost trust? I don't know and what does it matter then? I can't change anything about it now.

Shine bright like a diamond. Right! They should ban Rihanna for life. I can't stand the song anymore. I think Mandela's island is still empty. Nice place for some people. Poor Mandela by the way.

If I have respect for anyone, it's him. He spent half his life in prison for his principles that he wouldn't give up, not even for his freedom.

ANC members singing in front of the hospital. Respect!

Maybe I should just keep writing. Turn the music up loud and keep writing. As soon as I stop writing my brain goes into overdrive again and it doesn't make any sense. Jumping from one thing to another. This afternoon I suddenly wondered how the olive tree in the garden was doing. Are you crazy or not?

If the truth has been forbidden then we're breaking all the rules. Beautiful text and the truth will come out, even to parliamentary questions. We will find our voices, I am not afraid, they can read all about it. I hope I find that voice soon. For the time being I am just paralyzed. Being free and being able to think calmly, then the logic will come out by itself. Now they are waves. I can't do anything with them.

### **Sunday June 30, 2013 07.00 am**

Instead of a champagne breakfast and a nice Sunday with the kids because we would have been married for two months, today a grumpy guard. He should take a diazepam himself. I feel sorry for his wife (if he has one). He probably also feels sorry for my boyfriend and kids. I'm not that nice to them. What goes around comes around, although it is a shame that I am dependent on them and therefore never "win". At nine o'clock we are allowed outside for an hour and then tomorrow morning at 10.15 o'clock the next air.

Whoever came up with that should be locked up here for three weeks. After three weeks you have had the schedule and you start again at week 1.

Just occurred to me. When I called Marjolein's office this week and the operator said she was going to make a callback request, I replied that they don't pass them on here. After that conversation, a guard corrected me and said that they are always passed on. That is certainly not the case. The point is that the conversations with my lawyer are simply being listened to and I am confronted with them later. In fact, the guard stood by when I called the probation service and Marjolein. Furthermore, we have to call the telephone booths that are here, which means that all conversations with the lawyer are recorded and/or listened to.

08.30 Just outside. I feel bad. Chest pain, kidney problems, vomiting after eating and constantly upset and panicking. Just read the letters I got from the kids and looked at their drawings.

So sweet and crying again of course. It's going to be a long hard day. Fuck that Diazepam too, it doesn't help. It wouldn't surprise me if they hand out placebos here because of the budget cuts. Luckily Marjolein is coming back tomorrow. Just an extra hour out of that cell and a normal person to talk to.

If only I could see the children for a moment, if only I could be with them for a moment.

Is suicide painless? If only I had the courage. I feel like I've lost everything. Material has never interested me but my family. When I come home I can never offer Tom what he gets from his father. For years I have done the impossible but I don't have the strength for it now. I don't even know if I will ever dare to go outside. It is so big outside. And Shirley deserves so much better than a mother who can't even stand up for herself anymore. A mother who has lost her way.

I just don't want to anymore. How hard can dying be? If God exists and fairy tales exist then maybe I'll be home next weekend.

### **July 1, 2013 (day 81)**

I went to the MD this morning to have blood drawn and for a urine test. The results will follow. Marjolein came right after. We talked about everything. She's coming back on Friday. Ramon apparently didn't go to his lawyer last Wednesday. He told me that he did. He would continue after the visit. Lying again. And I'm going to marry him? Back to square one! Lying through the roof and being too stupid to think with his drunken brain that those lies will be exposed sooner or later. Tomorrow I'll call the FIOD to have them deliver the things that are coming back to Marjolein's office. Ramon is also going to Almere tomorrow. I won't say anything when I call him about not going to the lawyer. I'll do that on Saturday during visiting hours unless the children are there, then I'll wait until I speak to him alone. As far as I'm concerned, blatantly lying about something so important in your relationship is out of the question. I know that he doesn't dare to have many confrontations without alcohol, but I'm not going to play his mother any longer. Let him be there for me for once. His last letter is dated June 3, a month ago.

Shirley, where are you? Tom? I feel so alone, really so alone. Is there no one left except Marjolein who I see once or twice a week? I should actually meet a Yvonne who will get me off the train tracks now, I am really depressed. No more office from tomorrow either. Everything, absolutely everything that I have worked hard for for seven years is gone. As if it never existed. Until the bullying campaign started I never had a cent of debt anywhere. Never borrowed money anywhere until the misery with them started. After they started doing that two years ago I made €250,000.00 to €300,000.00 less gross in one year. Two and a half years later, do the math! The loss of income is more than enough to pay the PGGM and the taxes.

If only we could hang them from the highest tree. What drives Desiree I don't know either. Probably stuck in a trip. I have no other explanation for it.

I look at the pictures in my cell. The kids in Turkey, the kids in EC outfit, me in Aruba. Drawings of Tom and Shirley that say: I love you very much. X Tom. Our wedding card is hanging there and a picture of Ramon and me together. What does it mean? What does our whole relationship mean anyway?

I hear nothing but that Tom is doing so well with his father and I am so happy about that. Shirley also wrote that things were going well with her father. I sincerely hope that the bond with her father will be restored and that the sadness about her father will be a thing of the past. That she will finally have a father. What do I have to offer them when I am free? Love of course and there is plenty of that for them. If I have to sleep under the bridge then without them. I don't care and I hang that mirror there too but why would I take the children away from where they are doing well?

Normally you should be able to blindly assume that you and your partner will look for solutions together but...he is not there and never has been, except for the three weeks that he did not drink before my arrest. I took the lead in everything.

The decisions that had to be made, the finances etc etc. If you doubt every day whether you stay alive or rather die here, how am I going to live a life with the children. If I were to die here from a heart attack or something, it would only be easier. This is also very selfish. Have I really become like this here? The PTSD is killing me here. It is really destroying me.

Mentally I am a wreck. Everything comes in waves. I lie there for hours thinking but I don't even know what.

#### **July 2, 2013 (day 82)**

Call Fiod and Marjolein today. Call the children tonight. In the worst case, I'll be here for another 17 days. That's the pro forma. My worst nightmare is that my pre-trial detention will be extended by 90 days. I'm already running on empty.

With 90 days extension everything stops. I can no longer stand here. Fall asleep with my clothes on, wake up hysterically in the middle of the night, don't eat and sometimes don't even know what day it is. This week I ate twice when Nada cooked. Other than that I don't eat anything and just spit.

Why can't I shut myself off? Living between hope and fear and nowhere to go

can. Shirley and Tom. If I just write their names I'll break down. They're doing well with their fathers. Isn't it in their interest that I distance myself from them? How? I love them so much. If I look at their interests, their fathers have so much more to offer than I do for the time being. If I look at the love between the kids and me, they're better off with me. Shirley's father smuggled him out when she was born. The man couldn't handle the responsibility. Tom's father is a good guy but autistic. He doesn't see things, can't put himself in someone else's shoes and that was also the reason for the divorce in the end. And now Ramon. He's a combination of both fathers. He drinks and runs away from all responsibility. Doesn't matter what. Today he was supposed to go to Almere. Why don't I believe that? And why now all of a sudden? There won't be visitors until Saturday. Bad of me to think like that but I think he's picking up his last things and moving somewhere else (later it turned out he had already done that).

17:00. And when you think you've had it all on such a day, a letter from Shirley arrives that doesn't lie. Completely upset and banging my head against the wall in misery, Lale (piwi) found me. She came to see what was wrong with me. Completely upset, I tried to explain everything that had happened that day. From Shirley's letter to the evacuation of the office today. In the end, she read the first three pages and dragged Shirley's letter and me out of my cell with a list of telephone numbers, the invitation to the mother/child day and Marjolein's card. I told her that only Ramon knew the ING codes. Shirley's letter said that Ramon had thrown her out on the street and had transferred all her money. Lale said: you are now going to call your lawyer and have those codes changed and to pass on everything Shirley has written. When you are finished with your lawyer, call me and we will call your daughter. I called Marjolein completely pissed off. When I was done I called Lale. She came and sat next to me and said: Von, pull yourself together now!

You're going to break down and everyone sees it happen. When you walk out of here in a moment, your children will be there and they need you. Let Ramon go now. You have to be there for your children, they need you, not him! At half past seven I'll get you out of your cell. Nada is going to cook and you're going to eat tonight. Now we're going to call your daughter first. Lale called Shirley and I got Shirley on the phone. They're coming on Sunday!!!! An hour and a half with the children alone. Fantastic!!!! Luckily I was able to talk quietly with Shirley but we also cried very hard together. We ended it well and Marjolein will come on Thursday instead of Friday morning.

Lale. A female Turkish piwi who was here when I was brought in. Within an hour we spoke Turkish as far as I can. Talked a lot with her and she has saved me from a report several times. Lale is honest and sincere and has the best interests of everyone here at heart. She knows I am writing a book and I promised her to send her my first book. Signed J of course. We talked a lot about Turkey, about my arrest and why I am here. She is not allowed to say it but I see it anyway: Von, if politicians thought the same way as you do, healthcare would be twenty times better organised now. Anyway, it is now 6:30 pm. At 7:30 pm our group starts with recreation for two hours.

I'm pretty calm now. I'll still get those seventeen days in the worst case

well through and then life begins with my children. As long as we are together then everything will be fine.

What I didn't understand from Shirley in the conversation is that she said that the Youth Care Office told her that I would be released on August 1st. Do they have a crystal ball there? I wonder where that came from. During recreation I can still call for six minutes. I still have 1 euro of credit so the conversation will be short. Lale also said: If you are going to call Ramon, keep the conversation light. Don't say anything about Shirley's letter or about ING or you will go into the night completely pissed off.

He's coming to visit on Saturday and I'm on duty then, I'll get you through it. So they do exist! Guards with feelings and a higher IQ than a peanut. In that respect I've done her an injustice, but putting things into perspective is not my best side here. How can I ever thank Marjolein and Lale?

21.45 Hours. Had a great evening with Nada, Daisy, Lale who joined us and Cock who joined Lale as a guard. Cock is the one who brought cigarettes in the evening when I was in confinement or took me out of my cell to chat when I was panicking. Nada had made Turkish Kofte with salad, fries etc etc and we all had a great meal. Later Cock came to me to ask if I was okay and if he could do anything for me. He said that Lale had told him everything. We chatted for a while until it was time to go back to my cell.

At 21:30 Lale came with sleeping pills and the message that I had to take them in her presence because it was time for me to go to sleep. We chatted for a while and fifteen minutes later I went to bed. Lale closed the door and said that I had to go out for air at 09:45 tomorrow and that she would be back in the afternoon. I thanked her for everything. Without her there would have been accidents today. Pills are starting to work, it's enough for today. Tomorrow evening recreation from 17:30 to 19:30 and both Lale and Cock are there. Nada is already cooking during the day so that's going well. Tomorrow after dinner Cock and I are going to play table tennis, we agreed. After that it's already Thursday and Marjolein is coming and on Sunday the children are coming.

### **July 3, 2013 day 83**

I woke up because someone shouted: Madam, you are going on transport. I was completely shocked until I realized that it was not directed at me. I looked at the alarm clock and saw that it was 07:45. Phew, I have never slept that long here.

Immediately after that the door opened for medication. The guard (I don't know him) said: Oh, you're still sleeping soundly, it was about time you slept. I'll put your medication down and just ring the intercom when you're done. Then I'll come and see if you're taking your medication and he was gone again. Made coffee, showered and pressed the intercom. Guard came to see if I was taking my medication and left again.

I was just thinking about going on transport. My grandmother went too. The train she was in was bombed, she lost an arm and was seriously injured.

Most of the people on that train didn't survive. Grandma did. She died of cancer when I was twenty-one. I always found her prosthetic arm scary. My grandma was the best. She protected me from my father.

Wow Anouk has a new song. It's called Pretending as always. Scoop was just on TV. Luckily I just took a pill. Now on TV: Don't you worry child by Swedish House Maffia. Great video clip and lyrics. Haha Jason Derulo with Take me to the other side. Well, I say come and get me then Jason. Let's go to The other side together. Get the kids and feed the swans!

09:00. Have they seen the light here? Will I join in the sports? I can already see it with that Diazepam under my belt J. Besides, those sleeping pills continue to work until about eleven, so I'm not that fast in the morning. At home I started working around six until I woke Tom at half past seven. At half past eight when he was at school I would continue. I won't be able to do that here. I can't be pushed around here before eleven. Would I like to join in just to get out of my cell for a while? I said I still wanted to write. That was okay and if anything happened I could use the intercom. I almost fell off my chair here. It seems as if they suddenly take me by the hand and want to keep me busy. Maybe because of Lale and Cock in their transfer. I have no idea.

16:00. Slept all afternoon and had terrible dreams. I dreamed that I was sleeping and suddenly my whole body left my body. I called for help but no sound came out of my throat. I did see my own mouth move. I wanted to bang on the walls but my head wanted to but my arm wouldn't do it. Then I tried to say and thought: God, no I want to go to my children, don't let me die here. It ended well, I'm still here.

First a cup of coffee and a cigarette now.

Robbie Williams sings: How do you rate the morning sun? Pff when I think about it... Here the sun is divided into squares by the bars and the fences. Will the rising sun ever have the same meaning or will I always keep seeing those squares?

17:00. Another half hour and then we have recreation. I'm going to call Tom. Always didn't want to, afraid he would get upset or angry and frustrated and take it out on his dad at home. They probably don't have a clue how to deal with him at his dad's house so I didn't want to call him to keep him out of trouble and keep them from getting mad at him.

Maybe it would be better if I didn't call him. I'll see him for an hour and a half on Sunday. That music, huh? Is there such a thing as coincidence? I'm writing about Tom and on TV R. Kelly starts with I believe I can fly. When Tom was dying as a baby I would have chosen this song if he were to die. But Tom could fly. He flew back to life just like his sister a year and a half later when she almost died of meningitis. That Lale and Cock gave me a boost yesterday.

I sleep or I write, that's all I do.

Just received another letter from Shirley. She can't take it anymore. Poor poor Shirley. I have to go home, I really have to go home. Tomorrow I'll have Marjolein read the last two letters. And yet again broken now. Better if I intercom Cock now before I completely lose my way. Cock: we're going to play table tennis and then we'll talk. Cock won. Then I let him read the letter from Shirley. Cock asked if I could get through to Ramon and said I should try by calling him. I called him and confronted him with what Shirley had written. He had been drinking when I had him on the phone. I told him that he was doing something wrong and what Shirley had written. Oh, he said, your fantastic daughter again, I'm kicking her off Facebook now. You were so proud of your family, weren't you Ramon?

You're dropping us like a brick now. Then I hung up and asked Cock if I could go back to my cell. And that wasn't allowed. Nada was cooking, she was almost done and Cok was like: You're going to get your plate and cutlery from your cell and we're going to play table tennis until you eat. Nada had gotten a few things and said: When I see Ramon on Saturday during visiting hours I'll tell him what I think of him. Cock: If he continues like this he won't even get in on Saturday, he's destroying Von with those brilliant actions of his.

20:30. Cock just gets me out of my cell. He said: Come on Von, we're going to call your son and daughter. I spoke to Tom!!! He was so happy to hear me and kept saying: Mom, I love you so much. Cock listened in, tears were running down my face. When I hung up, Cock said: Okay, now you can cry Von. Your children are worth crying for. Back to the cell for a cup of coffee. Margriet came in afterwards and said: Did I just see you eating with the group and playing table tennis with Cock and you spoke to Tommie, right? So she started crying again and told me that that was indeed the case and that the children were coming on Sunday. Great, she said, then I'll be there too and I'm really curious about your children, I'd really like to see them sometime, they're so beautiful in the photos. Nah, I don't know what's going on with the guards, but I've never seen them like this before. Margriet also said: Keep eating Von, you have to be strong soon and we especially want to hear your laughter more often here.

Tomorrow Marjolein and the lady from probation will come. I hope they come in the morning because then I can air with my own group. What you don't worry about here.

Oh Rihanna's unfaitfull on the music channel. On my blackberry there is a video of Shirley and Tom singing this song on the Playstation. They can both sing well And Tom's English was super good for his ten years. Nice video to watch. The children singing, so relaxed, so super sweet. I have a hundred and fifty videos on that Blackberry and at least a hundred videos have Ramon on them and there is a story behind it. The videos are nice, the story behind it only hurts now.

What am I doing? Is this processing? Saying goodbye? I have done my children and myself such a disservice the last two years. Everything revolved around Ramon and everything at home was related to his alcohol problem and the mood swings that came with it. Too much is broken. Shirley and he hate each other intensely and I really don't want to continue with him. The drink has won. Again! I'm looking for them

also out! I kept him at a distance for a while in the beginning. Intuition? What is the added value of our relationship? My self-confidence is a drama, the children have seen and heard too much, have even seen me being beaten by him when he was dead drunk. Is this what I want for years to come? I would so much like to know why the drink wins in our family. If only I could get an answer to that. Our beautiful moments, the love...it is not enough.

Loving is not enough! If I want to survive this I have to cut off all contact with him.

I know that one day I will get up. And if I do get up, it will be out of anger or because of something that I find completely unjustified. Getting up while you are locked up is not possible. But then a kind of primal force rises up in me and I thunder over everything and everyone who stands in my way. As long as I am locked up, I simply cannot do that. I cannot go anywhere with that helplessness, anger and sadness. I eat myself up inside, it is destroying me. I listen to everything, swallow everything, sit on my bed to bite my tongue, I can do no more. We often sang and it made me happy, but now I have not been able to say a note for 83 days (at the time of writing this, I still cannot).

What is nice to know and experience is that most guards here believe me in my cause. They are not allowed to give their opinion but I notice from everything that they believe me. Tomorrow 4th of July, independence day.

**July 4, 2013 08:30 am day 84.**

At 6:00 AM I woke up crying. Music on and I zap from MTV to channel 57 and Caiway. That way I have the choice between new and oldies all day long. I stay a little informed for later. Shirley and I always have a "competition". She is more into Don Omar and I into Usher and Neyo. I miss our music together. Taking turns putting on a song and having fun. I miss playing football with Tom. I feel like going to Walibi or Disney with them.

In December 2010 that was not possible yet. Tom still had to be in the group and I was there to work, so Shirley also went into the group. "That evening, at the fireworks, I stood alone. I saw all those families laughing and enjoying themselves with their children, I was dying inside. I didn't want that anymore and so the VOF was set up with Saskia Moesbergen so that I would have more time for my family.

I already had a burn-out and was completely overworked. I barely slept and was busy saving the world and losing myself. When Ramon came to live with us in May 2011, I was completely overstrained and didn't know whether I was living from the front or the back. Phones were ringing incessantly, everyone needed me for everything all day long and I was failing on all fronts. Against the children, myself, my work and everything and everyone and on top of that Ramon had his problems. As a solution, the VOF Onzichtbaar Anders was set up. I would get more rest, tasks would be divided and the application for admission to the AWBZ would be processed. Everything went differently. I was screwed terribly simply because

I was too far gone to see what was going on and to have a good overview. I stood there and watched. No longer able to intervene. Stunned!

When will I find the strength to stand up? Just let me out of here so I can think clearly. How can I keep my brain together here? I am cooperating with the investigation, have returned from that week of leave, have not been questioned for weeks, take medication three times a day and have lost a lot of weight in the meantime. I have to control myself every day knowing that Shirley is going to break down and everything is disappearing under my feet. How? If I continue to be paralyzed like this I will have no chance during the trial, then I will completely shut down. Fear rules. Fear of everything. The television is on at its loudest all day long on the music channels so that I can't hear the keys and doors. Fear of Shirley's letters, fear for the children and even fear of calling them. From a big, tough, self-reliant woman I have become nothing. Not important to anyone and those for whom I am important, I am not there. And my greatest fear is that I will not be there for a while either. I see them all laughing going to court and coming back broken. I'm so afraid that I'm too optimistic. That I'll have to stay here after July 19th with all the consequences that entails.

The worst consequences are the children and that I really can't do it. In that respect I still think the same. I'm holding on because I hope for justice but if I have to stay here I'll quit. Really permanently. Five times a week I'm rounded up in the ward by Nada, Daisy and the guards. Now I can still do it and I also listen with the thought in the back of my mind that I'm going home on the nineteenth of July. If I have to stay after the nineteenth it's all so hopeless.

The children will be placed under supervision (Shirley also received it thanks to an "anonymous report by Desiree Doremalen. Tom did not receive it), I will lose our home and the children will have to continue with the stigma that their mother is in prison. No way that I will do that. Never! Stability is hard to find here and in my head it is not there at all. If I am convicted (why again?) and have to stay longer I will distance myself from everything and everyone and I will die as I was born. Alone. Knowing that the children will make it without me. They are strong enough and I have nothing more to offer them than 1 hour of love a week with forty others and the guards.

The writing stops here. I can't put it down on paper. Because of the PTSD, when I write I relive everything and that can be a dangerous situation for me. Maybe one day I will be ready to write it. It doesn't detract from this book by not writing it. It actually adds something to it. Namely that detention destroys more than you like. Whether or not you have done something wrong, with the exception of anything worse than fraud and with the exception of situations in which (fatal) victims have occurred.

By the way, I never married Ramon. As soon as he was released, he moved in with someone else.



# CHAPTER 10 – THE MAIN STARS

OPGEJAAGD



DOOR DE OVERHEID

-HOOFDROLSPETERS-

## **The main characters**

I was hanged by four people. By working together it was a piece of cake for them.

For example, the accountant, Rob Assenberg, had access to my entire administration, both private and business. Saskia Moesbergen had an interest in my disappearance in connection with the company she had started with her sister. Rebecca Albert was furious about her dismissal and it turned out afterwards that Desiree Doremalen, who also wanted to join Vrienden van Tom, tried to worm her way into the ministries of VWS, OCW and Justice, which she also succeeded in doing. The latter also makes no secret of the fact that she does not hesitate to actually misuse/use her network within the ministries. More about Desiree and the rest later. We start with Rebecca Albers.

## **On the bus to Euro Disney**

Rebecca worked in the Friends of Tom crisis shelter and thought she was great. Rebecca took care of the media and contacted, among others,

1-Today. She managed to tell me with a straight face how bad I was.

and that the PGB should be used for care instead of Euro Disney.

We went to Euro Disney once a year, right after Christmas, for 2 days. We stayed outside Disney and everyone was allowed to come. Even the children in emergency shelters, the children whose budget had run out (where 4 can eat, 5 can eat too) and the children under guardianship. Everyone had known about this for years. From the care office to guardians to, just think of it... People who say that's not what the PGB is intended for should now, 5 years after my conviction, ask themselves what the situation is with what was recently decided by politicians, namely that the PGB may be spent within Europe! Apart from that, Be Active from Almere has been going to countries like Suriname and Cambodia with these children for years. But even that doesn't affect me. What does affect me is seriously the fact that people don't grant children with a disability 2 days at Disney a year.

These children will never experience something like this. How sad you are if you don't want that for children!

Anyway, whether I'm bad or not, Rebecca was the first to get on the bus to Disney for free with her entire family. She as a supervisor and 2 of her children fell under the target group. Incidentally, they did not have a PGB. When Saskia Moesbergen became my partner, there was some internal bickering and Saskia (my full partner at the time) fired Rebecca. I agreed with that. There was also a lawsuit in connection with her dismissal, which she contested. I had to continue paying a few months' salary and she was not allowed to make any statements about my private life or the company.

Rebecca started a crusade against me after her discharge, as I learned from her sister after my first detention. Just as she had terrorized her parents and sister for years, it was now my turn. There were reports. At BJZ that I was beating my children, at the landlord that children were sleeping in the office, at her parents' house she laughingly told me that my time was up because, as her sister literally told me after my first detention: "the accountant had withheld documents", they "were all going to screw me" (that this actually happened became clear after my detention) and much more misery. I had a full-time job. The telephone threats also started (which were also reported).

Since Saskia left shortly after Rebecca was dismissed and there was contact between Rebecca Albers, Saskia Moesbergen, accountant Rob Assenberg and Desiree Doremalen, despite denials from all sides, we can now say with certainty that the agreed work was to destroy me. This has now also been confirmed by Rebecca's sister, the manager of the Care Office at the time, a former employee of mine who emigrated to Egypt and several other sources.

Rebecca tried to get people to join them. She suggested that an employee had passed documents to my home. I recently spoke to this former employee. This is what she had to say about it: "I knew this was going to happen from the moment Rebecca asked if I would testify, long before your arrest, and I said no" and "I know for a fact that I had nothing to do with this and therefore did not pass any documents." However, even

If she had done that then there would have been no problem because there was nothing to hide.

After my detention and the broadcast of 1-Vandaag, I discovered by chance that Rebecca had received a UWV benefit before she started working for me. She let this continue for months after she also received a salary from me. Benefit fraud! I think that is unacceptable so I sent her contract including her pay slips to the UWV after my detention.

Rebecca is still doing her best in youth care. She started her own business and is doing crowdfunding. Rebecca Albers has been reported.

### **The Bookkeeper**

Rob Assenberg has been doing the bookkeeping for Friends of Tom from day one. Rob himself has a child with a form of autism so there was a "bond". That Rob is even worse than the devil himself I only found out later. There were signals from the employees but they were calmed down by him and I repeat it again, I really had no idea about it that is why I hired an accountant. However, I was liable for what he did.

In January 2011, I started Onzichtbaar Anders together with a partner Saskia Moesbergen (see the chapter Saskia Moesbergen). I could no longer do it alone. Our accountant was of course Rob Assenberg.

In May 2011 Saskia indicated that she could not combine family and work and she said goodbye in tears. Before that time she did fire Rebecca Albers (see the chapter Rebecca Albers). She deregistered from the Chamber of Commerce and after five months I was on my own again. Now not only with the Stichting Vrienden van Tom but also with Onzichtbaar Anders.

After her deregistration, Saskia withdrew another 5,000 euros and appropriated all sorts of things (laptop, telephone and company car (Ford KA)).

Rob came up with a settlement. So someone who had been there for 5 months claimed half of a company that had been around for years. Of course I did not agree to this. The holiday season came and during my holiday I was called.

Von, do you know that Saskia started her own business with her sister and approached your entire network? My answer: they can do it. As long as the care is in order.

Two days later I got another call: Von, did you know that Rob is also their accountant? Then something broke. Once back from vacation I started talking to Rob (the conversation was recorded). At the end of the conversation we said goodbye. I didn't want to continue with him and looked for a

new accountant. From that moment on Rob refused to return my administration, both business and private. I hired a lawyer who held him responsible for all damages resulting from the non-delivery of the administration. Up until the day of my arrest he gave various statements. He told the new accountant that he had put it in his mailbox. He told the civil judge that he was not allowed to hand it over by his client Saskia Moesbergen.

He told the criminal judge that he had delivered the administration to my home and he told more stories about where it was. Of course I filed a report. These reports have been lost at the Public Prosecution Service but I still have them and have sent the Public Prosecution Service a copy.

Immediately after my arrest, several emails came in to my lawyer from former clients of the same accountant. The accountant later turned out not to have any diplomas either, but pretended to the judge as an accountant!

In my criminal file I later read that the accountant felt called upon to consult the FIOD on how to "deal with these situations". At exactly the same time that Saskia was warming up the Healthcare Office, Rebecca was attacking the media and Desiree was briefly abusing her contacts at VWS. They all knew each other and had worked together.

Of course they came at the right time because Van Rijn was just busy killing off the PGB.

It got worse. My IB 2009 and 2010 were sent to the tax authorities without me having seen or signed them. During my interrogations it was said that the tax returns for those years were indeed sent from his IP address and from his accounting program, but he had given the explanation that he had first emailed them to me and when he had not received a response after 2 weeks he had sent them. I think you understand, I never received emails and they were not found in my laptop or in his that he had sent them to me. However, because it concerned my IB I was convicted of tax fraud.

Of course I filed a report. These reports have been lost at the Public Prosecution Service, but I still have them and have sent the Public Prosecution Service a copy. After my detention I filed a new report against Assenberg, but I did not receive this last report.

After 6 hours of taking statements in 2 days by the police in Almere, they were convinced that I was right and called the officer with their findings. However, he indicated that he did not want to prosecute Assenberg and I did not receive my report because it was suddenly seen as a witness statement in case other problems would ever arise with him. The report could be requested by my lawyer. Of course she did this but never received it. I

started an Article 12 procedure against him and this was rejected again by the Officer concerned because: 'I should have filed a complaint'!

This Officer also handles other PGB fraud cases and was recently reprimanded by the judges in a huge case that is similar to my case.

The people prosecuted in this case were acquitted but this Officer has appealed.

Below is the letter in which Assenberg was held liable in October 2011 for not returning the administration and the resulting damage and worse, despite the fact that he denied during his witness statement that he could access the business accounts and my private account, he transferred the payment himself.

Several reports have been filed against Rob Assenberg.

### **Double game**

Saskia Moesbergen is the mother of 2 children, 1 of whom has behavioral problems. Her son regularly came along on the weekend sleepovers and eventually we decided to start a partnership together. After years of being on my own, I was running out of steam and she came across as honest and involved. Our accountant became Rob Assenberg and he would take care of everything administratively.

Five months after the founding of Invisible Otherwise, Saskia left again. The combination of family and work was too hard for her, she gave as a reason. She said goodbye in tears in the presence of the accountant. In retrospect, it was a play that Brad Pitt would have been jealous of.

Two months later, Saskia had started her own business. Saskia approached my employees, my network and the parents of the children. In the time that she was my partner, she had had the opportunity to copy my entire network.

She also took the accountant with her and withdrew another €5,000.00 after she had already deregistered from the company account and some other things.

It was agreed that she would "tip" the Care Office about fraud. Invoices were indeed made to parents of children with a surplus, but that was always done in consultation with the guardians of the placed children and with the Care Office. Incidentally, the employees of the Care Office were banned from speaking and the head of the department was bullied away after my conviction.

I have good contact with him now and he is at the top of the list of witnesses during the review.

Back to Saskia. After 5 months she thought she was entitled to half of the company. I didn't think so so I went to a lawyer. Behind my back the train had already started moving and accountant Rob Assenberg was already at the

FIOD, Rebecca approached the media and Desiree Doremalen warmed up her friends at VWS and Justice. It became a civil case in which Rob acted as Saskia's lawyer. The judge was not so charmed by it.

Unfortunately, because the criminal hearing started during that period, I ended up behind bars again, so they got away with it at that time.

Saskia was heard as a witness, just like Rob and Desiree. Shortly after my arrest, a letter arrived at the Public Prosecution Service about me. A letter that the dogs wouldn't eat and signed by Linda van 't Schip. Linda is/was a friend of Saskia and her son was also cared for by Friends of Tom. Both Saskia and Linda were questioned. Linda said that Saskia had asked if the letter could be sent in her name but that she had not given permission for it. Saskia did it anyway and denied having sent the letter during her witness hearing. Perjury under oath and the Officer did nothing!

A report has been filed against Saskia. They have also 'lost' this. And I still have a copy of this report in my possession.

#### **The VWS connection**

How bad can a person be? How cunning and mean and how can someone get a secretary general of the Ministry of Health, Welfare and Sport to dance to her tune? You have to be a snake for that, a serpent is a better term in this case and I have no words at all for the Secretary General in question.

I met Desiree Doremalen somewhere at the beginning of Friends of Tom.

Somehow contact was made regarding her daughter.

Her daughter was nominated to go to Euro Disney. It was the first time we went and we had approval from everyone involved. From the Care Office to guardians to parents, everyone was in agreement.

Over the years we kept in touch. Most of the contacts we had were about children wrongly placed in juvenile detention centers or children/families in difficult situations. At the time, Desiree presented herself as someone who was training herself at a legal level where I mainly worked in practice. Because I noticed that Desiree took everything to herself, even things she didn't understand, I kept my distance and limited myself to the files that were playing. At one point I had Desiree upset on the phone. Her son had been arrested and had been in jail.

After that he had gone to a friend. Desiree asked me if it was wrong that she continued to put her son's PGB in her name even though she no longer provided care while he was away from home because, she said, she could not spare the money.

Apart from her son's, she also wrote off her daughter's PGB on her

name. Incidentally, Desiree has remained outside the investigation of the Ministry of Health, Welfare and Sport and the Health Care Office. The reason why is not hard to guess!

When it became too much for me to run the shop alone, Desiree asked me if I wanted to work with her. We would be a great team and blah blah blah. I didn't want that. What she did was good, but working together, working with her 24/7, was not something I wanted to do. Shortly afterwards, Saskia became my partner. Desiree did keep making objections to support me, including my son's objection. For example, she made an objection a week before my arrest and withdrew it without my knowledge a day after my arrest and also casually made a false report to the Youth Care Office about the children. I was in all restrictions and of course didn't know that at the time. When the restrictions were lifted, I called her from the PI. I was terribly worried about my children who were on their own and hoped that she could do something for them. How wrong I was. Terrible. If I had known that she had made that report, I would never have called her. I didn't expect it either. She should know better.

Later I also heard that she had been screaming hysterically and like crazy into the telephone at a BJZ employee: "Get those children out of there now" etc.

When I called her she chatted along. Nothing about a report, nothing about what she thought of me, nothing about what she had done behind my back and also nothing about the other parents she indoctrinated and misinformed. I now know that that is Desiree to the core.

Desiree has reported herself. At least in the witness statement she contradicts herself. At the beginning of the statement she says that she was approached, at the end of the statement she says that she contacted her own person. She also admits in that statement that she filed a report about my children. Children that she had been following for 5 years, saw sometimes and with whose mother she occasionally fought in connection with the welfare of other children. What is really disturbing, however, is the fact that she says in the statement that she worked for the Rotterdam Police in the intake department and now comes the thing.... I have screenshots from early 2017 in which she tells a vulnerable parent that she worked for the Public Prosecution Service and as a detective.

If only it had stayed that way, but no. For example, she tells people online that she has contacts with people who dream of being allowed to polish their shoes, and who she means can be seen in the screenshot of a WhatsApp conversation between Desiree and Eric Gerritsen, the Secretary General of the Ministry of Health, Welfare and Sport. The content needs no explanation. In the meantime, 5 years have passed and she (recently) still warns people about me via social media and drags me through the mud. I am attacked by people who are complete strangers to me. Not everyone goes along with it and it regularly happens that someone contacts me to hear my side of the story. These are the people who form their own opinions and do not belong to Desiree's tea party.

# CHAPTER 11 – HOME AGAIN

OPGEJAAGD



DOOR

DE OVERHEID

-WEER THUIS-

## Back home

The children were already waiting for me when I walked through the front door. We threw our arms around each other and cried. Now it was really over. Mom was home again.

The next day, things had to be taken care of immediately. There was no income and because I was released early, I had to attend day care at the thrift store in Almere until the official day of my release.

Justice has a contract with the thrift stores and places prisoners there who work for free all day. For the first time in my life, I also had to apply for social assistance. So: you work for Justice but have to apply for benefits! It was to be expected, I couldn't handle all that stress and collapsed. My daughter found me in the hallway and called the ambulance. Within a week after their mother came home, they were home alone again. Mom was in the cardiac ward. Again, no one to look after the children. Daughter cooked and took care of her brother, I was catheterized.

## Reporting obligation

The municipality of Almere informed me subtly that it could take up to three months before the money arrived. In the meantime, the justice department considered locking me up again because I did not go to day care at the Kringloop. Eventually, I was exempted

but I had to stay home on the couch until January 6. If I went out to the doctor, for example, I had to report it to the Justice Department.

### **Threatened deportation**

The rescue came again from Turkey and from my friends and network. Christmas came and I still had zero euro income. Groceries were carried in, Christmas presents for the children were there and we had the most beautiful Christmas of our lives. After all, we were together. More was not needed.

A letter arrived from the housing association. I was going to sublet my house and for that reason I had to vacate it within ten days. However, there was no question of subletting, nor had there been any. When I was in detention, the house was empty. The rent was paid by my brother. My lawyer intervened and I was allowed to stay. However, the rent was €740.00 and with zero income that became difficult and so I got into arrears with the rent and was threatened with eviction again. Eventually I received social assistance for the first time. The municipality immediately withheld 10% of that because my daughter had turned eighteen. They didn't care that my daughter had been in a rehabilitation centre, had been diagnosed with CVS and was in bed all day with severe migraine attacks. My daughter was sent away from the UWV and the municipality and, just like me, had zero income.

### **Assistance**

My welfare was €950.00. €740.00 rent was deducted from that, two times medical expenses (daughter and me), electricity, water etc. I had a structural deficit of three hundred euros per month in bills. Not to mention food. A solution was found for that. I got a card from the Food Bank and was allowed to buy sixty euros per month from the food bank. Fifteen euros per week, five euros per person per week.

### **Your son no longer receives care because you committed fraud**

In the meantime, my son was doing badly. He skipped school, rebelled against everything and everyone and hung out with the wrong friends. Both school and I indicated that care had to be provided again. There was a big meeting and during that meeting Veilig Thuis said very loudly: "Your son will no longer receive care because you have committed fraud". BAM! So my son was punished for what his mother had or had not done.

### **Get deported and report to the Salvation Army with the children**

The situation became more hopeless and hopeless by the day. Every day something happened. For example, the police would quietly ring my doorbell at eleven o'clock at night to hand me a letter, while I had two children at home who would get upset if the doorbell rang or if they saw police driving down the street. I could

no longer paying bills, was refused by debt counselling, received another bill for medical expenses from detention that they refused to adjust, etc. When I was finally told that there was no saving me and no one would help me with the advice that I would be better off getting myself deported, having to report to the Salvation Army with the children and that would immediately be a reason to take my children away from me, something broke. I thought everything was fine but my children had suffered enough.

**After he went through the door at customs, my daughter and I collapsed. It was like my heart was being ripped out**

At the moment I was thinking about this and looking for a solution, a phone call came from Turkey that my girlfriend was not well and might die. That was on a Friday afternoon. Tickets were arranged and the next morning we left for Turkey. Three days later, in Turkey, I became very ill myself and was admitted to hospital. Less than two days later, the municipality of Almere called me that my benefits would be stopped immediately because I had gone on holiday without reporting it. I could appeal but that would take months. That was where it ended. There was no way back. I discussed it with my friends and they also said: "Von, you have done and fought what you could, if you come back now you will no longer have a home and you will be on the street with the children". There was no other option than not to go back. If only to save my children. After a few months, my son got homesick and wanted to go back.

Which was also logical. After a conversation with his school and his father, we decided together that he would return to the Netherlands. My daughter and I took him to the airport. Again, we were torn apart. After he had gone through the door at customs, my daughter and I collapsed. It was as if my heart had been ripped out. I still talk to my son every day on the phone, sad. We see each other as much as we can, but he is not happy and that hurts more than all the misery in the entire world put together.

**If you can't beat them, join them**

In the meantime I received a message from the Netherlands that I had to come and testify. Because I did not know whether I was on the telex I wanted a safe conduct. That was absolutely not necessary according to the Public Prosecution Service. In January 2016 I flew to the Netherlands. Hotel and ticket were paid for by the state. Upon arrival at Schiphol I was immediately arrested. I still don't know why, but eventually my lawyer got me released three hours later. I immediately emailed the Public Prosecution Service that I would not come and testify if a safe conduct was not issued immediately. Within an hour I had it in my mailbox and I could testify. Fortunately I was also able to see my son again and hold him in my arms and three days later I left again thinking about where to go and realizing that I had nothing, absolutely nothing, in terms of money or possessions. There was nothing left for me but to sleep on the beach among the Syrians. Even though I had nothing, I did have one thing and that was time to think and I decided to set up a political party that would

took into account the interests of children with the underlying idea: "If you can't beat them, join them!"

With free wifi from surrounding hotels I cobbled together a website and started. That was picked up pretty quickly and there was intensive contact with people who were also involved in politics. It was agreed that they would bring me to the Netherlands and I registered with the municipality to continue from there. Two months later I landed in Germany where I was picked up and brought to the Netherlands. There I tried to register with the homeless counter in Amsterdam which...was refused!

The reason...I didn't know which bridge I would be lying under and during the check I had to be present at that bridge.

We went to plan B. I would go to a holiday park and register with that municipality. Living on a holiday park was not allowed but they are not allowed to refuse you registration. I registered and applied for social assistance. During that conversation I was told that I had to go back to the UWV because of full incapacity for work. Of course I reported there after detention but was sent away because I had been in prison for fraud. Now I am far from stupid but at that time I was so broken, had had surgery on my heart, was in danger of becoming homeless that I simply let myself be sent away like a fool. In fact they were right. I had been convicted, had spent 364 days in prison so it sounded plausible. In the meantime I know that they should never have sent me away and that I should have simply gone back into the WAO trajectory.

### **Living a 'normal' life**

Anyway, the municipality sent me back to the UWV. That could only be done in writing, so I sent them a letter and... was immediately rejected. A call for the assessment would follow. I fell ill again and had to be operated on for the recurrent cancer, which also happened immediately at the Antonie van Leeuwenhoek hospital in Amsterdam. A week later the call for the assessment at the UWV came. I went there limping and the advice after re-assessment was completely rejected on the grounds of PTSD, COPD and recurrent cancer. Can you be happy after that news? I can, because I realized that I could lead a "normal" life again and have my son with me again.

### **WAO**

The joy was short-lived. The next day I was called by an office clerk from the UWV with the empathy of a peanut who thought I could easily clean (COPD) or turn screws all day long. I should just apply for transport via the WMO because of the PTSD. I could

in objection and so I did. Only a little over a year later after two hearings, a lawsuit and a settlement I went back into full disability benefits.

#### **Living allowance**

In that year in between, however, I still had no income and the municipality of Ede decided to 'help' me. That help meant that I went to live with my son (who was back with me by then) in a 1-room flat on the eighth floor in Ede. We lived, slept and ate together in 1 room. I slept on the floor. My son in a single bed. This flat was run by the Johanniter Foundation that took in the homeless. My entire benefit went to that Foundation and I received seventy-nine (later thirty-nine euros) per week to live on. Still not enough to pay for my health insurance, for example, but they didn't care much about that in Ede.

#### **In my mirror I saw the motorcycle cop approaching and yes, the 'follow' sign came on**

A week before I moved into that one room, there was a loud knock on the door at the holiday park. "Open up, police" and there they were. Two police officers and an employee of the emergency service Veilig Thuis because they had received a report. Thank God my son was not among them. It became a long story but the result was that my son did not want for anything, was not abused and he was "safe" with me. Three days later I had to report to the town hall in Ede with my son. I was treated so terribly there and even unofficially interrogated that I ran away in a rage. It came down to the fact that if I received groceries from friends, for example, I had to report this to the Municipality of Ede, including a bunch of bananas, because then they could take that from me

collect benefits. They also forbade me to drive a borrowed car and much more nonsense. Once outside, we got into the borrowed car and drove back to the holiday park. In my mirror, I saw the motorcycle cop approaching and yes, the "follow" sign went on.

#### **Municipality of Ede continues to harass**

Ten minutes later I was in a police car with my son and I was arrested. With my minor autistic son there. The car was confiscated. It turned out that the owner had an outstanding amount of road tax on another car. Another hour later we were back on the street and walked to the bus that could take us back. By the way, I had a whole fight with the municipality of Ede because they wanted me to come and live in the municipality immediately after the first contact, but without my son. I would then be accommodated in a (I still have the emails) four-star hotel at the expense of the municipality, but my son was not welcome. I refused of course.

After another conversation with the municipality, my son was allowed to come along and could go back to school and there would be structural help to get my life in the Netherlands back on track until...it became known that I was participating in the elections with the Children's Interest Party. Once again I had to report to the city hall of Ede. There I was told that I had to deregister from the Party immediately and I invoked my fundamental right on the spot.

The tone was set again. From that moment on there was police at the door twenty-four hours a day, when I left they drove after me. I put it to the test with friends.

They thought I was seeing 'ghosts' because of my PTSD. Unfortunately they had to admit that it was true and after six months in the Netherlands in which nothing had been achieved we crept out of the flat late at night towards the airport outside the Netherlands.

As the top candidate for the Children's Interest Party, I participated in the elections together with two others under an umbrella structure with three other parties.

# CHAPTER 12

## – CONVICTIONS

OPGEJAAGD



DOOR DE OVERHEID

-VERORDELINGEN-

### Convictions

Before we look at the convictions, let's first consider a few facts.

These facts are the reason why my lawyer asked the Court to declare the case inadmissible. All in all, there has not been a fair trial. process.

1. Prior to my arrest, I reported myself five times. To the Ministry of Health, Welfare and Sport, twice to the police, to the detectives and to the Healthcare Office. There are wiretapped conversations of these. Yet the officer maintained that I was a flight risk until 6 months after my arrest.
2. I was supposed to get married in Turkey a week after my arrest. Despite the fact that the wedding invitation was submitted, that I had reported myself, and that I had also passed this on, the officer made it seem to the media that I was going to flee and was therefore a flight risk. However, the groups of Friends of Tom were also going to Turkey that week. So I was going to flee and take 150 children with a disorder with me?
3. The media stood in the street waiting for the SWAT team to arrive.
4. Over thirty armed men with bulletproof vests, three Armored cars, an assistant officer and an assistant judge were called in to corner me in front of the door and arrest me on suspicion of

...fraud. My arrest was one that a mafia boss or Holleeder would have been jealous of.

5. My two minor children were left alone. Son was even locked in his room. Twelve years old and autistic. Daughter just out of the rehabilitation center and fifteen years old was left behind devastated with her little brother.
6. During my first interrogation I "confessed". The interrogators were hilarious. However, I did not confess anything. I honestly told how things were with the knowledge of the Healthcare Office, VWS, guardians and all those involved.
7. While I was in all the restrictions, the media was storming through my house and office.
8. In 2011/2012 I myself requested a book audit after the new accountant indicated that some administration was missing.
9. I have hired a lawyer and filed a complaint against the old accountant for not returning the complete administration, both private and business.
10. I was finished off by the officer during a hearing because I made 'candy trips' with the children. Never before have people worked so hard as in those weeks outside the regular weeks and weekends. These 'candy trips' are now allowed. It was recently announced that you can now go abroad for 13 weeks from the PGB. Whether you go to Euro Disney or to Portugal. Apart from that, at the time of my arrest (and still now), for example, Be Active from Almere went to Cambodia and Suriname with children. This was allowed and apparently still is.
11. During all my interrogations I indicated that I had PTSD which caused me to panic constantly and that I wanted to report the crime. I was forbidden to do so.
12. Lists of children I was providing care to at the time of my arrest have had their names swapped. This list was later used to charge the names on it.
13. Important witnesses before me were all barred from testifying and were given a speech ban.
14. The evening before my first leave, a note was slipped under the door that the leave was being revoked because of the surviving relatives. They were not there. I was there for fraud.
15. My son was refused entry to the PI after he had visited me several times because he did not have any identification on him. However, a copy of it was in the PI system and he was twelve. According to the rules of the PI in force at the time, identification is required at the age of fourteen. This twelve-year-old boy had traveled three hours to see his mother. He never went to regular visiting hours again after that, but only came once a month for an hour and a half on mother/child day.
16. Wiretapped conversations are not accurately displayed and manipulated. My lawyer was not paid enough hours to listen to the wiretaps in their entirety. She complained about this to the judge, but the judge dismissed it.
17. My criminal file was at the Health Care Office even before I was convicted. The Health Care Office used anonymized pieces from my criminal file in letters to parents.

18. De Telegraaf put my minor daughter on the front page of the Saturday edition in connection with the "public interest".
19. Witnesses including Desiree van Doremalen, Rob Assenberg and Saskia Moesbergen lied during their witness examination under oath and committed perjury. The officer does not intervene. Their statements are contradictory.
20. I was accused of having houses, boats, money etc. in Turkey. There extensive research has been done on this and nothing has been found.
21. Center Parcs fails to request cash payments payments. After my detention I turned out to have paid €125,000.00 in cash. Money that according to the officer I had gambled away.
22. Two years after my detention, the Public Prosecution Service returns Ministry. If you add the cash paid at Center Parcs you get an amount of €672,000.00 euros. I have been convicted for €684,000.00 euros. The receipts are missing for €12,000.00 in 7 years with 52 employees. The ING bank received a settlement for less.
23. I was convicted as of 1-1-2008. I found the administration of the whole of 2008 in the shed. They had forgotten to take it during the house search.
24. The curator seized the care money from the son with the permission of the examining magistrate. It turns out that this is not allowed. This should have been returned to the Care Office. Curator's response: your name was also on that account. This is correct. At the time, that was a requirement of the Care Office to receive a PGB for your minor child.
25. After the judge's ruling, I was again called outside the courtroom arrested. I had to wait for my appeal in detention. The PTSD destroyed me there. I lost 60 kg, cut my wrist due to panic attacks, broke my foot and took an overdose of medication. The PTSD made me unfit for detention. The officer had THE solution. If I were to withdraw my appeal, she would do the same and there would be an end date. Because it was expected that I would not survive, that happened. Revision is the logical step that follows, but then in any case in "freedom".
26. The officer called me a "sly" fraudster. However, so sly that I then sat in the bank with seven hundred thousand waiting to be arrested while I could have run away with millions, I never applied for subsidies and did everything neatly via the accounts while until early 2011 cash payments were also allowed.
- 27.3 Independent judges have complained in cases against persecuted parents that the whole case is wrong and should be started again.
28. The collection measure has been reduced by more than two hundred thousand euros because it has not been established that I gambled away PGB money according to this judge.
29. Art 12 procedure was rejected because I did not file a report have. Copies of some of the reports are now online and have also been sent to the Public Prosecution Service.

Yes, I moved PGBs. Dozens of children with too little PGB or no PGB at all were placed with me by the government. Both by the Youth Care Office and some children during a court case by the juvenile court as children who had to go to an AWBZ institution but could not immediately go as a bridging measure. There was no money immediately available for these children, but they did have to have 24/7 care, room and board, clothing, go to school and everything else that children need. I always asked permission from the guardians and with the Care Office under which these children fell or would fall when the PGB application by the guardians had been completed. The answer was always: No problem, use what you have left for one but for the other for a while. However, none of these guardians or the Care Office were allowed to testify during my trial.

Yes, I have also invoiced surpluses! Always in consultation with the Health Care Office. They could have explained that during the investigation, but instead of telling the truth, employees were banned from speaking. After my trial, they were bullied away. In the review, they are at the top of the list of witnesses.

I have provided €2.1 million worth of care that was never invoiced. The families where it turned out that more care had been provided than they could pay were kept out of the process. I can (still) name them one by one and it would have been a small effort for the Public Prosecution Service to check that. They chose not to do that.

I have made false invoices. There are plenty of examples. For example, one of the parents transferred €6,000.00 back to the Care Office as a surplus. The Care Office booked it back (physical transfers available) with the message: you purchase care from Friends of Tom, let them invoice it because they need it desperately. And so it happened! This is known to the Public Prosecution Service. Here too, the parties concerned were not allowed to testify. *Incidentally, I recently read somewhere that my secretary was convicted and blatantly lied.*

*The lady herself made invoices for her nephew in the office. If I had known this was going on, I would have testified against her! I will certainly discuss this with the review. It also shows the level of the investigation team.*

Yes, I gambled. Not for 500,000 but occasionally at Holland Casino. I also gambled online at Oranje Casino or Stargames. At Holland Casino never more than 100 to 200 euros. I gambled with my own money. That is also the reason why the confiscation judge reduced the claim by more than 200,000. My ex gambled online all day long but he had nothing else to do. He told me that he did that with his own money. I was shocked when I was told that 500,000 had been gambled away. In retrospect, that amount also turned out to be far from correct, but it did fit in with the agenda of State Secretary Van Rijn and the Ministry of Health, Welfare and Sport to hang someone. I was responsible for an emergency shelter, an office, 150 children and the contacts regarding all the children and did not even have time to breathe, let alone gamble away 500,000. As my lawyer explained, when you make a payment online it goes to Buckaroo and a few others

between stations. The Public Prosecutor has conveniently classified all pin transactions as gambling. So clothes for the children in daycare, for example, ordered at Wehkamp were suddenly gambled away? The sad thing is that I was convicted for that too. Just like for the € 125,000.00 cash that was simply paid at the holiday park.

What I did do was occasionally withdraw money from Holland Casino for the overnight groups for the simple reason that I could not withdraw more than 2000 euros at the holiday park, but I could at Holland Casino. I neatly added the receipts to the items that went to the accountant, together with the receipts of the groups on which the money had been spent. After my detention, I made inquiries at the park in question and asked what I had paid in cash over the years. I received a neat overview stating when, how many bungalows and how it had been paid. That was € 125,000.00 in cash.

Not included in the research and physically in my possession now.

Don't get me wrong, even though I had permission, I did it all! That's also why I took all responsibility immediately. It was, in my eyes at the time, a logical step that the Care Office and the guardians would also take their responsibility. However, they didn't. It remained deathly quiet.

### **Tax fraud**

The accountant did my income tax return. In 2009 and 2010 he submitted it without my approval, without me getting a copy. It has been proven that it was sent from his accounting program and his IP address. During my interrogations by the FIOD these income tax returns were put under my nose. It was the first time I had seen them and there was also no signature from me.

His explanation was that he had emailed it to me and that the agreement was that if there was no response to the email within two weeks, he would send the income tax return to the tax authorities. I kept all my emails. These emails were never found, not even in his sent emails to me. He could not produce them either. Copies were not found when the FIOD seized my remaining administration at his office after my arrest (which he had supposedly already handed in several times) in short, they are not there!

However, after my arrest, disturbing emails arrived at my lawyer. Again, this was dismissed by the officer.

As described earlier, I transferred exactly €1000.00 to my private account every month and paid the mortgage from that. I did not ask for an advance deduction because I was not entitled to it because I did not live there (good fraudster, huh?!). The house

was completely crisis and time-out shelter. What did the officer make of it? That I had evaded taxes and on the basis of the income tax assessment that was therefore not in order I was convicted of tax fraud. On the basis of my conviction, the tax authorities find that I had had that as income so whether I want to pay retroactively. Small detail. In 2013 and 2014 I was detained and there are also assessments of a ton for those years. Not corrected to date.

#### **Money laundering**

Because the business accounts were blocked, the accountant advised to have the invoices deposited into my private account. In total, that amounts to around 200,000. It has been established that that money was also spent on healthcare. Nevertheless, I was convicted of money laundering.

A little fraudster will get the giggles from this because why would you have that money deposited into your private account if you wanted to do evil? Especially when you consider that at the time it was still possible to pay cash from the PGBs. A little fraudster would have let everyone pay cash and not provided any care but would have run away with a few million.

#### **UWV fraud**

Due to recurrent cancer and chronic PTSD I was on disability benefits. When I received an income on 1-1-2011 I duly reported it to the UWV. They also had the form I filled out with them during the interrogation. Early 2012 I should have reported what income I had received in 2011. I couldn't do that because I threw out the accountant halfway through 2011 and then I didn't get my administration back. Everything was in Rob Assenberg's office. Both business and private. Of course I reported it to the UWV early 2012 and the battle was still in full swing when I was arrested. For convenience I was convicted of UWV fraud for the period 1-1-2008 to 12-4-2013 and I have to pay back seventy-four thousand euros.

# CHAPTER 13 – TROPICAL YEARS (2015)

OPGEJAAGD



DOOR DE OVERHEID

-TROPENJAREN 2015-

## Tropical years 2015

After deleting my daily update again I was done with it.

Then take a more professional approach and create a website on WordPress.

After this site was created, some people made themselves known.

From threats on Facebook to a real report against me to the police. On Twitter, a report was made of the officer who found the evidence for libel and slander convincing enough. I can assume that they discussed their own libel and slander campaign there (some have been on the desk at the Public Prosecution Service for 4 years) because the name of the person who tweeted it has not yet been mentioned.

Comments such as: “that will mean another 2 years in prison” to “#TBS case” fly left and right across the screen.

## September 29, 2015

On a terrace overlooking the Mediterranean, with a super ICT'er, a cup of cappuccino and a cigarette I think about the people who have boarded a boat here in the last few weeks towards the EU. Most of them arrived, some washed ashore including small children. Compared to them I can't complain.

Ironic that they seek their freedom in the EU and that is why I am here. I was free but I was not free.

## **October 1, 2015**

Last night again PTSD misery. After 3 hours of sleep I woke up standing up in my bedroom. My phone was on the floor and in my sleep I was busy untying that girl who had hanged herself in the PI from the bunk bed she had done it on. I woke up from my own screams..no one heard me.

In the meantime I have been sitting on a terrace for about 7 hours. Fortunately the weather is nice. I see boats sailing and wonder if they are fishermen or refugees. Plenty of time to think in any case. And I think mainly about what went wrong.

I have never denied that things went wrong, but I have been convicted of things that really made no sense.

## **October 7, 2015**

What is nicer than sitting with your daughter and a cup of coffee on a terrace with a view of the Mediterranean Sea and a temperature of 26 degrees? Sitting in the same place but with your daughter and your son!

Things aren't going so well for me. Physically, yes, I'm not as skinny anymore and (how could it be otherwise) I have colour again. My lungs play a small role and make themselves heard. When I worry a lot and am stressed, I have an asthma attack every now and then. Fortunately, my daughter and I, just like asylum seekers and refugees, are insured, even though I don't pay. After all, I have no income and I also have to pay for my daughter (who is also not paid and has no income). In the Netherlands they had decided that, because we couldn't pay, we would both have to pay a 50 euro fine on our health insurance bill every month that we couldn't pay either, which has put us even further into debt. With thanks on behalf of the party committee to the Municipality of Almere, which has stopped our income, which has left us stuck here. Fortunately, we have a great network here, in the Netherlands we would have been under the bridge by now. In that respect, asylum seekers are better off in the Netherlands. What is killing me is the PTSD.

That's so intense that I can't even write about it without collapsing so we'll skip that today.

Furthermore, a lot of whining from the Netherlands about this site, but I can be brief about that. SO WHAT! You have terrorized my family for 4 years, made false statements, lied under oath, threatened us (still), intimidated us and you still won't leave us alone. This time there is a difference from the last time. This time I will hit back, because I have nothing left to lose!

## **October 8, 2015**

The sky cries with us, it rains in Turkey. We miss our son and brother terribly. Fortunately, he is doing well and is being taken care of well.

cared for. In twelve days he will be fifteen. For the first time I am separated from one of my children on their birthday. Even when I was in prison I did not miss their birthdays and we were together.

Last night the lights went out. On Facebook in a group a text was posted for me and I cracked, went all the way to the ground. I cried my eyes out for a good hour but it did feel better. Luckily I wasn't alone and after a game of table tennis (which I lost badly) I rolled into bed exhausted.

Anyway, I realized again that I was not alone. So many people fighting in the background. People I don't even know who are working their butts off.  
for us.

The news here and in the rest of the world doesn't make me happy either. What's wrong with everyone? Hate campaigns are the order of the day, people being harassed, fights in Italy, France, England and Germany, attackers in Almere being thrown back onto the street instead of being held (and it doesn't matter whether they're asylum seekers, refugees, fortune seekers or Dutch, either throw them out of the country or lock them up!). It's five to twelve everywhere but everyone is busy with their own shop and pushing the opinions of others down their throats. I read about Rutte not taking responsibility, about Russians being annoying, about the supporters and opponents of Wilders... misery everywhere. What a mess we're all making of it, unbelievable!

I'm going to watch floating boats again and think, think a lot. Because I can!

### **October 9, 2015**

Today is three weeks ago that I took my son and daughter's little brother to the airport. On the way back our driver stopped for a cup of coffee. I thought I was choking on my grief, apparently the driver thought so too.

He didn't speak English. There was nothing to explain. The only thing I thought about was my son flying alone for the first time in his life and the family not being complete again. Admittedly in a different way but still, the sadness is no less. Flying back with him was not an option. There are still eight days open and to prevent me from getting a one-way ticket to detention and my daughter being here alone this was the best solution. If the car hadn't been a total loss I would have brought him. Anyway, my son did a fantastic job, thanks to three Dutch women he was well taken care of on the way and arrived safely.

Daughter is doing fine. The beginning was difficult but she is doing better now than in the Netherlands. Son is also doing fine in the Netherlands. He is happy to be with his friends again and at his own school. His last year of secondary education.

## October 11, 2015

Deep mourning in Turkey. Yesterday, dozens of people were blown up in Ankara. The youngest was nine years old. His father did not survive either. The proud Turkish people are devastated. Today the flags are flying at half-mast everywhere and you only see gloomy faces. Things are not looking good here, in any way.

It suits me at the moment. Sometimes I spend whole days at the water. It gets light and it gets dark. Sometimes I sleep, usually I don't. Every now and then I am "shaken awake" by my friends in the Netherlands and here. Yesterday and this morning I felt alive for a moment. Together with my daughter and two friends we had such a terrible laugh that we had stomach aches.

Actually, my daughter got the giggles and the rest went flat on her, the Turkish Polka :-). Really, what nonsense. Sort of a polonaise but then in Swazi with the flute and triangle as musical instruments in the background. Anyway, my daughter couldn't hold it in any longer and she laughed so infectiously that we stayed in it for half an hour. This morning started nicely with my best friend in the Netherlands.

The gentleman had filmed a selfie and sent it via the app. I spontaneously choked on my coffee and burst out laughing. Then I am myself again for a moment... it lasts too short. Immediately afterwards I "wander" off again.

I'm trying to calm down a bit. Should work, you'd think.

Unfortunately, the opposite is true. I want so badly to be myself again. I wonder if that will ever happen or if they really killed my character. They should make that punishable! Then I would like to be the officer, even if it is only for 1 day. I would know.

## October 12, 2015

Yesterday afternoon I had a conversation with someone here. I've known him for a number of years. He was one of the people I called from prison when I didn't know what to do anymore. He was also one of the people who made sure the rent was paid when I first got out of detention and made sure there were Christmas presents under the tree for the kids and food. He took us in in Turkey when I arrived here between detentions with the kids all pissed off and still when you need anything he's there.

The conversation started about the children, about my son and how he is doing in the Netherlands. Then about what my plans are here and what to do next. There are plenty of opportunities here, they are eager for my expertise in the field of autism, I can easily get into the music here. Turkey is open in that respect. That will not work at all. I simply cannot do it anymore. I tried it but I have a completely different view. I have always worked from my heart and I was publicly criticized for that. I will never be able to work in healthcare without inhibitions again. I have no professional ban but the passion is gone.

Anyway, the conversation continued about the Netherlands as a democracy and about my time in detention. I explained to him how Dutch 'democracy' works.

Told about the PTSD and detention and how now that I am free I suffer from nightmares and flashbacks. How my children were used to interrogate me, how leave was revoked at the last minute by means of a note under the door, how during and after my detention there was bullying around us but also via the *Telegraaf* for example but also about how I received a letter that I was not allowed to go home on my first leave (in next of kin who were not there) but could go to friends two streets further and that while I would be released three months later. I explained that I withdrew my Higher Appeal because my PTSD was cleverly played on, I was constantly in a panic and all I wanted was to go to my children. If they had told me that if I gave up my legs I could go, I would have done so. Without thinking! And they knew all that and cleverly abused it.

What also still bothers me is my detention number...8645732....it makes me feel sick just like when they came to get me to be interrogated at another location. Then you are "lifted". I once wrote about it on the previous website. I have both a German and Jewish background. So "numbers" and "lifts" make me nervous anyway. It always reminds me of my German grandmother and Jewish grandfather and their stories.

In the meantime I was in tears but I spoke bravely. About that mother of those kids who had pain in her chest and who was dismissed with stress. She dropped dead in prison and never came out again. About that girl who hanged herself, about the ISO and for the first time I went further. I never wrote about it and spoke very little about it....

About how I nearly kicked my foot in half in panic and they left me there for hours. In the end I walked around in a cast for six weeks. About that time I cut my wrist in complete panic. I had decided that I would be better off dead than my children would only have to grieve once and they could get on with their lives, I woke up in the ISO. About how I took an overdose during my first weekend leave and woke up in the Intensive Care Unit in the hospital (then immediately back in the ISO as punishment). About how I spent four months in solitary confinement in my cell because the foreman was showing off his power. About how I lost more than seventy kilos in two detentions. About how my son was refused entry to the prison because he didn't have any ID on him so I didn't see him for almost two months. I owe my life to the guards, most of whom didn't believe a word of why I was there.

They didn't say it but they showed it. Thanks to them my children still have a mother, only thanks to them, my dear friends outside and of course my lawyers.

I told him all that. He got an answer to his remark/question: isn't the Netherlands a democracy? He can draw his own conclusions and he is smart enough to do so. After that conversation that lasted more than two hours I changed clothes, turned my brain off and gaze on infinity, had a drink

taken and pretended nothing was wrong. Went pretty well, will continue tonight :-).

Going into detail takes all my energy but it's a start. I have to get through it to ever find a piece of myself again. It's enough for today.

### **October 21, 2015**

Don't ask me how but we did it. We got through yesterday.

The first birthday in our family where we were not together. Even during my detention it always happened that I was either just released or on leave. The week before my son's birthday was a complete drama. So bad that only the "survival" mode worked and just breathing and the basic things (eating, showering etc.) cost so much energy that I was completely exhausted.

Spontaneous crying fits, not knowing where to start, overexerting myself, nightmares, you name it and it was there. The solution was simple and the only right one otherwise accidents would have happened. Shut everything down, turn off the phone and completely get away from it all. And so it happened. Before his birthday I went away with a friend and my daughter. In three days we crossed almost half of Turkey, we visited the most beautiful places and I came back to myself a bit.

There was room to cry, laugh, talk and I also felt liberated in the end. I "felt" alive again, I don't know how else to describe it. Thank God my son got through it just fine and was super happy with his present.

What was kind of funny was the realization that I, who had worked with children for years and hammered on structure, could not maintain my own structure and needed others to organize my daily schedule in such a way that there really was structure. Things like getting up on time, having breakfast, I just could not do by myself anymore. So you see that what you sow, you also reap. Years ago I started teaching them those skills here and now they kept me going with them. Anyway, the three of us survived, it's over, time to move on!

This morning I started early reading the news of last week, going through emails and updating myself on social media which also caused a fit of laughter. Some people really think I hatched from an egg. Today is a busy day. I am looking forward to it. It will be a day full of surprises but I am ready for it unlike some other people who keep bothering me and apparently have no life of their own.

### **October 26, 2015**

And I fell back at a rapid pace, that hole seems to get deeper and deeper as I fall back. Coincidence does not exist and so it happened that I first had a kind of conversation with someone on Twitter yesterday and last night I got a huge kick

under my ass from someone here. That person on Twitter has a great sense of humor, is straight to the point and doesn't sell sweet buns. It made me think. Last night I had a huge crying fit because I want to but I can't. Suddenly there was one of the people I try to work with here but who is stagnating because of me. He said: What are you doing? I asked him completely off the cuff if it was meant to be funny because then it would miss its target? His answer was simple. I got a lesson in looking back and then not seeing anything in front of you. My, yes but, was responded to clearly and sharply. There is no yes but, it's enough now, you're going to die from it. It's up to you but I'm not going to stand by and watch anymore. Either you get up now and we'll go to work or I'll leave now and you'll never see me again. Clear language and to be honest it made me angry too.

Anyway, we picked up the thread right away and got started with amazing results already.

This morning I woke up with the same rotten feeling in my body. I didn't want to give in so I drank a liter of coffee, took a shower and continued where we started last night. I contacted people from my network in the Netherlands, told them my plans and one after the other responded enthusiastically. They are not the least there that I have spoken to and their contribution to the care for our children is enormous, both socially and politically. The coming days I will work very hard here and slowly try to wake up from a deep "coma". Fortunately, my daughter and son are doing well. Both are doing well and seem happy. Now I still have to, but I am on my way. For a while now, but there will surely come a time when I will no longer relapse so hard.

**October 27, 2015**

Open letter to the Telegraaf, the Public Prosecution Service, Every Child Safe (vmg BJZ), public prosecutor and Health Care Office.

Okay, the fact that I moved around PGBs (with the knowledge of the Healthcare Office and guardians BJZ) does not deserve a beauty prize. The fact that I had a wimp of an accountant is even more stupid of me. I did not have him checked and I did not know anything about it myself. The fact that I was so naive and blindly trusted him also cost me dearly. After all, I remain responsible for my own bookkeeping. I have understood that after a year in prison.

That both the Healthcare Office and the Youth Care Office could wash their hands in innocence, made possible by the public prosecutor who did not allow these parties to testify in my lawsuit, I can also understand. After all, they are executive bodies and where would all those dependent people and care providers be if these parties were openly keelhauled?

But what I don't understand, and believe me I've tried, is that after serving my sentence I'm simply being harassed and even indirectly threatened by, among others, the Public Prosecution Service. If I put parts of my criminal file online I commit a criminal offense. The mere announcement of that publication resulted in an urgent letter from the public prosecutor to my lawyer. However, De Telegraaf and the Healthcare Office already had my file before the trial started and the Healthcare Office is still using it (anonymized) to put pressure on parents. Would they have received such a letter as well?

What I also don't understand is why my children are being treated like this. My son has not received any care for fourteen months. Under pressure from the Ombudsman, care was quickly given up to avoid a lawsuit, but of course that did not match what all the care providers were asking for. The reason: my mother was in prison for fraud. The municipality of Almere employs all kinds of judges. One knows how to sell it better than the other. They conveniently ignore the fact that they are violating the rights of the child in doing so, and the fact that my children (my daughter has almost the same story, but then at the UWV) are the ones who suffer the most from this and are being hampered in their development is also not that interesting.

And Telegraaf, I never got an answer as to what exactly it added to place the photo of my underage daughter on the Saturday front page with the text that I would have defrauded millions. There is not even seven hundred thousand left of which the physical receipts of € 671,000.00 are present.

They were not processed by the accountant and so it is "gone" for the Public Prosecution Service. I missed that piece in your crappy newspaper. You did write that I was confused because I came to the courtroom wearing two different shoes. Once again, I was in a cast! And for that nonsense you ask money from your readers. You should be ashamed of yourself.

Youth Care Office, my daughter was placed under supervision for seven months (when she turned eighteen) because you were going to get her into school. Every month I received an email asking if I had found a school for my daughter. However, my daughter already had an exemption and you wanted a supervision order for that reason. Every month they received a lot of money for nothing. Who is committing fraud here?

You have your way eventually. Broken, shattered and torn apart we get through our days. You forget something. The biggest frauds are yourselves. As long as I have a voice and a pen or a keyboard I will not rest.

**October 31, 2015**

In an upward spiral with the occasional short dip but that is nothing compared to how it was. Around me they keep me reasonably balanced, I can't do it all by myself yet. I still forget to eat sometimes

or if I'm working on something I force myself to finish it while it can wait. What gives me an enormous boost is occasionally going completely crazy with music. I can really indulge myself here in that regard. Everything is at my disposal and let's be honest, what's better than an empty disco, fully equipped with everything you need and your own music? Just switch off your brain, look at infinity, no one around you, lock the door and go!

In the meantime, without anyone, except those involved, knowing, we have all worked very hard and created something beautiful in two days. Here too, I still need a lot of guidance and the occasional kick in the butt, but it works. That kick in the butt is not because I am not continuing, but because I have a tendency to fall back or to be very uncertain whether I am doing it right. I notice that I am becoming less afraid to undertake something and I am trying to let go of the thought that I might be doing something wrong without knowing it and then have to go to prison. The well-known saying: When you look back, you see nothing in front of you still applies at times and without a little help I will not get out of it. Fortunately, that is also getting better every day and I am regaining some self-confidence.

Furthermore, I still read a lot and nothing has really changed compared to ten years ago. Student transport is still a disaster, healthcare is just like when our kids were thrown into juvenile detention because there were no AWBZ places, parents are under a lot of pressure and accidents happen every day because of parents who are completely exhausted. We shout, tweet, speak out against it, make the newspapers every day with the terrible healthcare in the Netherlands and then we make coffee and go about our daily business. Nothing changes, absolutely nothing. It only gets worse. I warned them, they didn't want to listen, they threw me in jail. I have warned them again a few times now that the municipal INVIS system is leaking. They don't want to listen again. The next scandal in healthcare is coming. It's a matter of time before someone notices. They just do it, it's like mopping with the tap open with that rabble in The Hague. I don't put any more energy into it.

**November 2, 2015**

Loek Hermans. The man who came under fire for his role in the bankruptcy of healthcare organization Meavita with twenty thousand employees and one hundred thousand clients. Once good for a huge profit and a successful company, now forty million in debt and bankrupt. The judges have determined today that the top of the company is guilty of mismanagement and what does the gentleman say: I'm leaving!

That's how easy it is in the Netherlands when you've worked your way up a bit above the common people. Then you just get on. Let's be honest, he's not the first one to get on, but he's one of the ones I've been really angry about all day. Teeven is also a great example with his receipt. I can

crying about it. I have all my receipts. More than €671,000.00 in receipts are just lying there but were not processed and they refuse to prosecute the person responsible for that. And with that fact I am in Turkey with my daughter, without my son. Kept alive by friends and acquaintances for five months.

I don't have ten side jobs and therefore not a red cent in income. The municipality of Almere simply said to me: Madam, you have been convicted of fraud and that is why your son will no longer receive care and if you cannot pay the rent, you can sleep under a bridge, then you will get another home via the Salvation Army. My son did not receive the care he needed and was rapidly deteriorating. We could no longer pay the rent or the other bills, let alone eat. My children were hungry in the Netherlands. My daughter was hanging on a string at the UWV for a year from the age of eighteen. After a year she received an advance of... yes, two hundred euros. That year I tried to pay her medical expenses from social assistance.

In the end, that didn't work either. At the end of June, we left for Turkey in a hurry, where I ended up in hospital. Reason for the Municipality of Almere to stop paying out at all, and so we have now been in Turkey for five months without a cent. I have worked like a madman since I was fourteen. I have never had any benefits or anything. Now it was inevitable, even though I found it terrible. I don't need to elaborate on the situation in Turkey, the newspapers are full of it. But where my own country has let us down terribly and is still doing so, we are being taken care of in Turkey.

Loek Hermans is sitting at the table with his family tonight, we have been missing our son and brother for almost two months and we are devastated here, really devastated. The loss is terrible. I wipe my a\*\* with the "democracy", the 'legal system' and the 'equal rights' in the Netherlands. My family has been torn apart again. Because it can.

In the meantime, I tried to get started from Turkey. Nine Kooiman came up with parliamentary questions about it.

#### **Press release November 9, 2015**

Subject: Parliamentary questions on November 16, 2015 about Turkey care

While in the Netherlands youth care has escalated into a complete drama, Nine Kooiman (SP) manages to ask questions about Turkey care on 16 November in the Lower House. In her questions she emphasises that the care would be paid for by the taxpayer, with which she puts the House on the wrong track. On the website: [www.turkijezorg.wordpress.com](http://www.turkijezorg.wordpress.com) parents are advised on how to proceed with an application, nothing more. However, the twelve parliamentary questions cost € 3750.00 per question and are paid for by the taxpayer, while I am available for questions.

The basis for the parliamentary questions is of course the fact that I was convicted of PGB fraud. It has been a thorn in the side of the Dutch government for years that I could provide the care that they could not with all their billions. As a result, I was arrested, I did not have a fair trial and politics continues to thwart me as a care provider. Apart from the financial administration, the care I provided was adequate and I was not banned from working.

SP you are most welcome with the questions but, if you are so open and transparent, then also ask questions about my wrongful conviction and reopen my case or start an independent investigation into this. For a year now everything has been done to keep that cesspool closed by both the Ministry of Health, Welfare and Sport, the public prosecutor and the police.

Below are the questions as they are asked in the House of Representatives and my answers to them.

2015Z20702

Questions from Member Kooiman (SP) to the State Secretary for Health, Welfare and Sport about the report that victims of loverboys can be helped at the taxpayer's expense in Turkey (submitted 5 November 2015) with my answers. (The State Secretary himself gave an answer in 2016. See the chapter 2016 for this).

1

What is your opinion on the news that children with (serious) psychological problems or who are victims of loverboys can now be helped by a private youth care agency in Turkey, at the expense of the taxpayer?

*My response to this question: First of all, it is not paid for by the taxpayer. By saying this, you give a completely wrong impression. The costs stated on the website are an indication. For years (with the knowledge and permission of your government, by the way) I have provided care to children with the same problems who had no money. I have also taken in Youth Care children with an OTS who did not have a PGB or whose issued PGB was insufficient. Incidentally, parliamentary questions have never been asked about this.*

2

To what extent does the Youth Care Inspectorate (IJZ) supervise this private youth care institution? What are the results of this inspection supervision?

*My working method has not changed. According to the judge and the IJZ, the care I provided was in order. (see inspection report and ruling of the judge). I met and meet all the requirements that are also set in Dutch care, just like before. The inspection is welcome. The last thing I want is to withdraw from the inspection because I was, am and remain of the opinion that the care that is provided must meet the requirements that are set for it.*

3

If the Youth Care Inspectorate does not supervise this private youth care institution abroad, who or what does supervise?

4

To what extent do the previously established quality standards for foreign healthcare provision apply, which were drawn up in response to the desire of the entire House to establish quality requirements, and the then Minister for Youth and Family who gave the order to do so? 2)

*Our professionals in both the Netherlands and Turkey meet the requirements as stated in the quality register youth care. They are recognized by their professional association and registered in the BIG register and in a register that is considered equal to the BIG register.*

5

Are there municipalities that have a subsidy relationship with this organization or have given an indication for this? If so, which municipalities are they and how often has this happened?

No.

6

Is it true what Turkijezorg states on its website, that the costs for this care are reimbursed by the health insurer or by means of an indication issued by an indication provider? How often has this happened?

*On the website I indicate which channels there are and which paths must be followed to receive care in general. This does not apply specifically to Turkey care. If parent(s) or caregiver(s) submit an application for care from Turkey care and state that it concerns care provided abroad and the health insurer or care provider issues that care, it seems to me that there is open and transparent contact between the applicant and the person issuing the indication. Furthermore, my opinion is that if you provide care, parent(s) or caregiver(s)*

*simply have to point out via the website or other channels the options through which they can apply for care, whether that is for care obtained from TurkijeZorg or elsewhere.*

7

How many children with a supervision order (OTS) or guardianship measure have already been helped by TurkijeZorg?

*None but they are welcome.*

8

Is it true that TurkijeZorg is not registered with the Chamber of Commerce? 3)

Can you indicate which board members and members of the supervisory board work for TurkijeZorg?

*That is true up to now. We have just started up. If it turns out that it is necessary, it will be arranged within an hour. The last thing I want is to withdraw from Dutch law and regulations, namely.*

9

Do you share the opinion that if children need youth care and there is a provision available in the Netherlands, they can best be helped in the Netherlands? If not, why not?

*I wondered for a moment whether I should answer this question seriously but I'm going to try, if only to show how seriously I take this myself.*

*I can be brief about the existing facilities (a word that is easy on the tongue of all those helmsmen who are on shore). There are hardly any and if they are there, they are hardly or not at all accessible. Billions are spent on youth care and yet people die, children who had an OTS are abused (see recent newspaper reports) and dozens, perhaps even hundreds of children fall between the cracks every day. There is a lot of talk in the Netherlands about the care for these children but that is where it ends. In concrete terms, nothing has changed, in fact, it has only gotten worse. As you know and what you are probably aiming for is that I was in prison for PGB fraud. That in itself is sad enough. I have not been banned from a profession and as far as I am concerned, the last word has not yet been said about that. The care I provided was fine. However, I have been given an administrative ban (and rightly so) which I also adhere to. In that respect, I have learned my lesson.*

10

Are there more of these types of private institutions in Turkey or other countries (other than the Netherlands) that operate in this way and can you provide an overview of them? If not, why not?

11

Can you answer these questions before the Youth Care Legislative Consultation on 16 November 2015?

12

Can you also answer all questions separately?

Vague but all that whining and those parliamentary questions about me give me strength. I can say that I am at my old level and am combative. Well, black and white seen I have committed fraud. I have served my sentence, have no professional ban, but an administration ban and I stick to that (I now have real accountants with real diplomas). The care I provided was good, I meet all the requirements that are set for both Dutch and Turkish law so what is the problem? I think I can answer that myself but let the politicians do it first!

December 15, 2015

So I'm back. After a near-death experience and more than seven kilos lighter, I can go on for a while. In the meantime, Sinterklaas has already left and he forgot to take Rutte and his mentally handicapped cabinet with him. The last word has not yet been said about that as far as I'm concerned. When he arrives next year, he's for me.

There is no answer to the chamber's questions yet, but that is not possible for almost €45,000.00. You can't have any expectations for that money. If they had really done their job, I knew that for a long time but I'm not going to do their job, and they had checked everything properly, they would have known that everything is well arranged here and that we comply with both Dutch and Turkish law. Not many can say that. A good example of that is "Every child safe", the former Youth Care Bureau. The children were and are not that safe with them. Yet billions are involved, they have their offices in the most expensive buildings and they drive cool lease cars and I haven't even mentioned the bonuses in healthcare. And in the meantime, those who need care can rot away.

**December 24, 2015 Christmas Eve**

And then it is "suddenly" Christmas Eve. The evening on which I often unpacked the presents with the children in the Netherlands because it was too exciting to wait any longer for my son. Often I only put them down the day before Christmas so that he did not have to wait so long before he could open them. Candles on, lights everywhere, a beautiful tree but above all delicious food and being together.

Of course there was singing on the Playstation and the necessary Christmas films were also watched.

Christmas 2015. My son in the Netherlands, daughter here with me. No Christmas tree, no presents, no singing, no Christmas movies and not together. I don't know what the intention was and is of the Dutch government but even if I had stolen sixty million, I would have served my sentence, right? Now they have decided that I have to appear as a witness on January 5. I also have to be in the Netherlands on January 12, but that is separate from that. As for testifying, I have asked for a safe conduct to prevent me from being arrested with some vague story or because I still have to serve eight days because I did not take my daughter to school while I was in detention. That can also be done in the Netherlands. Being convicted while you are in prison because you did not take your daughter to school during your detention. The answer to my request for a safe conduct was strange: They reported that nothing of mine is outstanding! I don't know where they looked but I did indeed receive a letter that the fine has been converted into eight days' detention. It must have been the fairy tale newspaper again!

Apart from that, I have to make a lot of expenses to appear on January 5th. Add to that that I have not had an income for half a year and every farmer knows that this is not possible except for the justice department, they still do not get it. Just like the government and their parliamentary questions about me. It is possible simply because it is possible.

André Hazes is playing in the background – I am alone at Christmas. I am not alone but also not complete without my son. I wish everyone happy holidays and a good, happy and healthy 2016. Also to you Martin Rijn and Mark Rutte. You need it more than I do. We are temporarily separated from each other but that will be okay one day! You have to live, every day again with all the misery that you cause and have caused. Sleep well tonight!

# CHAPTER 14 – TROPICAL YEARS 2016



Tropical years 2016

January 11, 2016

It can't get any crazier in the Netherlands with the justice department. They would like me to come but there are still eight days of prison open. My lawyer has been informed of this. Those eight days are there because I did not pay a fine in connection with my daughter's compulsory education. At the time of the verdict, however, she already had an exemption but the Youth Care Office forgot to mention that in court.

My email that I would like a safe conduct so that I can enter and leave the Netherlands without any problems, I received the following response: We are not aware of any outstanding prison sentence. When I finally gave the case number after many emails back and forth, the response was: email the Public Prosecution Service yourself! I don't know what planet they are from there, but I do not intend to do their work unless I get their salary, but that is certainly not going to happen.

Apart from that, there are two other things that are conveniently "forgotten" even though I mention them in every email. First of all, the trip and

accommodation costs. I may have to go to the Netherlands five more times and since I have no income and am supported by others, that is a bit of a problem. If I want to provide for my own income, I will immediately have to ask parliamentary questions. Walking and swimming are not an option for me. I left the Netherlands because life there was made impossible for the children and me.

Now that I'm gone, that just continues.

The second problem that is at play is PTSD. Since the prison I have never been completely cut off from everything because then I panic. For a while I was able to prevent that by always thinking ahead and covering it up, but in the end it happened anyway and at a certain point I was without internet, without a phone, without transport and somewhere remote with only stray dogs waiting in front of the fence until they could get me. I can't tell you exactly what happened, but when it finally became clear to those around me (the language doesn't really help here) what had happened and why I was panicking so much (eight days later), I had lost seven kilos, was seriously ill and completely lost. In the meantime I am back on my feet, there is always someone with me or it is covered if I am ever alone and I have to say that, despite the fact that PTSD is unknown here and they have never seen anyone in such a panic before, they are dealing with it super well. I am functioning again.

Meanwhile my brain is still working overtime. All that misery in healthcare in recent months. Mega frauds, people who are responsible for mass layoffs and leaving thousands of people without care who are offered a job as mayor etc etc etc have made me think again. When I asked Renske Luijten (SP) on Twitter how things were with Loek Hermans as mayor I got the answer: @Yvonbrinkerink I don't understand it either. That is our current politics.

From what I understood from my lawyer, the Healthcare Office is still feverish. They keep hammering on that my son's accountability for a certain period has been rejected based on what I submitted, but I didn't submit anything for that period. They keep asking for copies of the so-called accountability statements I submitted, which I obviously don't get because they don't exist. Yesterday I came across a slogan from a health insurer on the internet. The slogan was: "One of the few protocols that must always be followed in healthcare is that you first look at the person and only then at the protocol". When I read that, I spontaneously texted my lawyers and told them to sue them for incitement to fraud because if you don't follow their pathetic protocols (as far as they themselves know what they entail) you will end up in a judicial hotel.

It remains for me to wish everyone a good, happy and healthy 2016. I wish everyone what he/she wishes me. I may come to the Netherlands this weekend. That depends on our class justice. If not, it won't be long now. If yes, it's because I can!

## **January 20, 2016**

It got even crazier! After I was assured several times by email that there really was nothing outstanding (which I continued to deny), I decided to fly to the Netherlands after all. Despite all the nice stories from the Public Prosecution Service, I was taken away at Schiphol anyway because, as the military police told me, there were still eight days of compulsory education outstanding. After explaining everything and after speaking to my lawyer and the public prosecutor on duty, it was decided to let me go. In the meantime, almost a week has passed, I still do not have a safe conduct and can therefore be arrested at every check and I feel like hunted game.

Apart from this misery I still have the problem called PTSD. It has been confirmed again. The Netherlands is indeed a banana republic. In justice, the Public Prosecution Service, in health care etc.

Luckily I did see my son!

Recently someone told me: Von, continue with what your strengths are, let it rest. I replied that I will never let it rest. I owe that to my and all other children and families. I have always taught all children never to give up, no matter how difficult it was, and never to base their opinion on that of someone else. It would be sad if I were to give up. Then I would not be credible to them. In the meantime, I will happily continue. No parliamentary questions will stop me... no matter how hard they try to stop me, I will never give up. Simply because that is not in my dictionary!

## **February 22, 2016**

Oh, the care office is news today. On Twitter everyone is going crazy about the broadcast of Tros Radar tonight. For me it is old news. Not the strangulation contracts that they make victims of PGB fraud sign but the way they act and deal with people but oh well... what can you expect from a CARE office? I think that it is precisely these kinds of things that have caused all trust to disappear for me. I used to think highly of them. Together with the care office we ensured that, even if it did not go entirely according to protocol, all children who needed care that day received care. Not all kids had a PGB or an adequate PGB but that did not matter. The care office allowed for "compromising". I always discussed everything with them. Strange that the care office was not allowed to testify during my trial because I was convicted and the care office's mismanagement was swept under the carpet.

Now, almost three years later, they are still terrorizing parents of children we provided care to. They are like dung flies in that care office!

I am currently filling my days with emailing the Public Prosecution Service. I had to and would go to the Netherlands to testify. A lot of misery, even to the point of being arrested at Schiphol. Especially a lot of costs, but that did not matter, they would be reimbursed immediately. I have not had any money for almost a year, so everyone has scraped together all sorts of things for me with the promise that they would get it back immediately. No way! I am still waiting. The last email today from the Public Prosecution Service was: we will look into it. If only they would look into it there!

### **February 28, 2016**

It doesn't stop, not by itself. I don't know why but that sentence has been bothering me for days. It doesn't stop, although it is a lot quieter here than in the Netherlands, if only because the postman never comes here. The rest just continues, of course. For example, my ex has to appear in court tomorrow for assaulting me in 2013 when I, yes, was allowed to leave my judicial residence for two weeks to do the paperwork that they had lost at the Public Prosecution Service. I didn't understand it at the time, but I could be with my kids and my future husband for two weeks, so who cared. That my future husband now had several girlfriends and was even living with someone else, I found out the first evening when he was lying in bed, drunk. Of course I threw him out and after having been beaten up for the umpteenth time, it was enough.

That was my first day of leave and luckily the kids weren't there. What followed were two super weeks with the kids and friends. I enjoyed every day as if it were the last. Two weeks later I dutifully reported back. The bruises were gone, I was single again but realized how happy and "rich" I actually was even though I had to go back to that damn prison.

Now, 2.5 years later, he has to appear before the police judge.

### **March 1, 2016**

Twenty-four hours of community service and a fine of €500.00 is the demand. Of course he did not show up for the hearing. I wonder if those judges realize that it takes a very long time for a victim of abuse to report it. Often all boundaries have been crossed and it is not the first time that someone has been abused. It was not the first time for me either. A broken nose, fled with the children in the middle of the night, my and the children's accounts plundered when I was in custody and I was not his only victim, I now know. In any case, in the Netherlands you are allowed to abuse someone, the punishments are a joke. I would almost punch someone in her/his face for it.

In the meantime I am still waiting for the payment from the Public Prosecution Service. In the mail of yesterday afternoon they announced that it will be in my account by the end of this week. They also mailed that on the fifteenth of February and then nothing happened.

We'll wait and see, although of course the whole circus remains a joke. They had at

Justice should have bought that tent from Circus Renz, they could have given their shows there.

**March 2, 2016**

The NRC published an interview with one of the parents the day before yesterday. Like most media, the NRC did not provide a hearing or find the truth. Dear journalist, it has been established that the money that was deposited into my private account was also spent on care. A decent journalist would have verified that. The mother in question had three children who came with her every weekend because it was too intense at home and there was also a chronic PGB shortage.

Always short by default and anyone who can do a bit of math and had looked at the indication could have seen that. Indeed, I used money from the PGB to pay her rent because otherwise she would end up on the street with three children. Since she was pretty pissed off at the time, was getting divorced and Onzichtbaar Anders was a commercial company and the money came from the company, I could do that. I saw that as a good deed and not as a mortal sin and I didn't want to go to bed at night with an account with money in it knowing that she would end up under the bridge with three children. If you buy bread at the baker's, he doesn't have to explain what he does with his money afterwards, does he? As for Turkey and Disney, at this moment there are still care providers who go to Suriname, Cambodia, Disney with children with a PGB. At the time, that was allowed and the care office and the guardians of the Youth Care Office were fully aware of this but they were not allowed to testify.

NRC, what I'm wondering is: did you, like the Telegraaf, receive instructions from the Public Prosecution Service or is it just bad journalism?

Every now and then I read texts from the old website. There I come across Spirit Jeugdhulp who took care of the children who were under the guardianship of Bureau Jeugdzorg in my house for eight months, but forgot to pay the mortgage and other bills, which is why the house was auctioned. Of course far below the sales value. The rest of the bills had not been paid either, half the house had been robbed and a huge mess was left behind on the street. Of course that is possible if your name is Bureau Jeugdzorg or Spirit, then you are allowed to do that! I always miss things like that in the media and I couldn't find it in the NRC either.

Furthermore, I was refused medical treatment yesterday. With a kidney infection, bladder infection, kidney stone and a lot of pain, I was told from the Netherlands that I first have to get a stamp and then I might get the care I need. Maybe not. I just have basic insurance. I have had no income for nine months so I could not afford the supplementary insurance. The story that every Dutch person has the right to care does not apply to me. Apparently I am either not Dutch or the constitution does not apply to me.

### **March 3, 2016**

Yesterday I met myself and it was quite nice. Reminisced and laughed in silence. Looked at pictures of the groups and wonderful to remember the special humor and strange things of the children in the groups.

Children without a budget who still came along. Children under the guardianship of BJZ who had lived with us for years and some of whom are adults. Children who had been in juvenile detention and of whom everyone said: nothing will come of that child. Children of whom we knew that they were being bullied because of their disability. How wonderful it was to work with them and how satisfying it gave everyone who worked with them. The chronic lack of money and sometimes late salary payments were accepted by everyone because they knew that the Youth Care Office was often thousands of euros behind with payments. The blow came when the Youth Care Office decided in December 2012 to no longer pay in advance for their pupils but afterwards. And when no payment came from them in January 2013 either, all hell broke loose. I asked them if I could also give the children food afterwards and take them to school retroactively.

The answer was not forthcoming.

It remains strange that everyone who was very closely involved was not allowed to testify during my trial. It also remains strange that I still have good contact with all those involved. They are still there for us because they all know that what I was convicted of is ridiculous. I moved. With permission. That was my biggest mistake.

No expensive offices, cool lease cars or bonuses for us. My employees and I were happy with food on the table and smiling faces when we could give one of the kids a little self-confidence and love. That's what we did it for. It's no longer about children in care, it's about numbers and statistics.

### **March 11, 2016**

Haven't written for a while, it was kind of hectic so to speak. My father passed away yesterday. Nothing but good things about the dead and his granddaughters have lost a good grandfather.

In the meantime I am fully engaged here and it is wonderful to be able to do what my heart is and what I am good at. I do not earn money with it, but I hardly did that in the Netherlands either. I think that at the end of the day I feel better than all those "managers" with their bonuses and fat lease cars. At the end of the day they die with a fat bank account but find out that they are very lonely.

My first book, I still get messages from Holland from parents and teachers in special education. Parents read it in one go and then email me. Like this morning a response from a mother. Fourteen years of the

She was sent from pillar to post. Fourteen years she thought it was her (mother's) fault and after reading my book the penny dropped. Of course I will also work with this child and parents.

### **March 16, 2016**

This morning I woke up to my phone. My daughter sent me a text. Today her grandfather, my father, is being cremated and she is already having a very hard time at the moment, apart from his passing.

I feel helpless. I want to be there for her so badly but it is not possible again. Whats app and voice messages miss their target in this and so daughter is in tears in the Netherlands and I am in tears in Turkey. We are both triggered by this and in terms of feeling and reasoning we fall back to the time when I was in prison. Primal feelings that cannot be suppressed by any words. She is strong but that does not take away the pain and the sorrow and the feeling of powerlessness.

For today I will leave it at that. Tomorrow I will continue my fight. Today my heart and mind are with my daughter, my always strong daughter. Strong for 19 years.  
Ohana Shirley!

### **March 22, 2016**

Just now I finally found a good name for the Dutch government on Twitter "cadaver cabinet"! And that is as far as I'm concerned the only good name for that disgusting mess in The Hague.

I also read about the V&D employees who, if they have been employed for more than 22 months, are sidelined from the sale of the buildings because otherwise they have to pay too much severance pay. I read about the TSN employees, about the refugee agreement and much more, which means that "cadaver cabinet" really hits the nail on the head. Apart from my own situation, I do have an opinion about this. And I haven't even mentioned the poverty in the Netherlands, about Van Rijn who is damn quiet and about Jette who probably fell really hard on her head and is therefore taking an even harder line with people on welfare, and my heart goes out to all those V&D and TSN employees who have to deal with this. What always made the Netherlands so stable is gone. There is no foundation and stability anymore.

It doesn't stop in my private life either. Back to the judge, the police that stagnates everything, the politicians that do react but don't dare to openly take a position, etc.

In the meantime, I have been without income for nine months, my daughter has been without income for almost two years and we have been kicked out of health insurance because we

who could not pay. What keeps me going is the knowledge that the worst suffering has been endured and that it will end one day. One way or another. I sincerely hope that this cadaver cabinet will be put to an end soon.

### **March 25, 2016**

Sometimes Facebook is not so crazy with their memories. That is how I came across the press release below. Everyone knows how those sessions on April 1st and 4th ended. Two weeks later, on Good Friday, April 18th 2014, after the verdict and having been home for eight months, I was arrested again. I was no longer allowed to call my children, to whom I had said: Mom will be back soon. I entered through the front door and disappeared into a police cell in the complex, waiting for transport to Nieuwersluis prison. My car just in front of the door, my children waiting at home, the dog still had to be walked. Once again I was reduced to number: 8645732! Leaving everyone behind in amazement, the door slammed shut behind me again.

Arriving at the prison, after the usual humiliating search, the news had already preceded me via SBS and other sources and the guards had already prepared everything. I was welcomed with coffee and the evening and night check.

Of course they knew about my panic attacks and all this time they were the ones who saved me from more than heart problems, a broken foot, a broken wrist and an overdose. That's what PTSD does to you in panic situations.

You don't want to feel the pain and the panic anymore so you look for a way to get the mental pain under control. Of course I didn't want to die and I'm doing fine but in panic I'm dangerous to myself. And the guards knew that.

Furthermore, I did not understand much of why I was there again. The biggest criminals were allowed to go home to await their appeal and I was locked up. I was stunned and completely in shock and did not know that the harassment of the Public Prosecution Service had only just begun. Now, two years later, I understand why I absolutely had to be locked up. Immediately after my arrest, the PGB was overhauled under the guise of being too susceptible to fraud. Congratulations to the Public Prosecution Service, the Healthcare Office and the Ministry of Health, Welfare and Sport on the results achieved in healthcare! You are a disgrace to our democratic and developed country.

Below is the relevant press release:

### **March 25, 2014 Press Release**

**The lawsuit surrounding alleged large-scale PGB fraud by Yvonne B. was careless**

**The substantive hearing against Yvonne B will take place on April 1 in the Utrecht court.**

**Collusion and negligence of an ex-partner and accountant resulted in six months of detention, a ban on contact with even her own children and the dissolution of an organization where countless children were left without care from one day to the next. Statements by the ex-partner and accountant show various contradictions against which Yvonne B. considers further action.**

**Yvonne B. could not object to the false accusations about alleged homes and possessions abroad and had to watch while her only home of her own was auctioned.**

**The reports of Yvonne B, as well as her earlier request to have a book investigation carried out, were ignored and instead she was arrested and labelled as a flight risk. There are many question marks about the way in which the investigations were conducted; administration that could have lapsed part of the charges was not included in the investigation despite an extensive house search. Also, part of the administration taken by the FIOD went missing.**

**On April 1st, during the hearing, it will become clear how Yvonne B, suspected of PGB fraud, was framed in a scandalous way and how the Public Prosecution Service blundered. As a serious criminal, Yvonne B was arrested on April 12th, 2013, in front of the entire press and her children.**

**“Friends of Tom” was founded by Yvonne B. to provide a safe haven for many families with children who would otherwise be placed outside their homes. Yvonne B. was active in offering opportunities to children who were often considered ‘given up’ and ‘impossible’. In doing so, she upheld the spirit of the WMO to strengthen the network and involve it in the care of their loved ones. She herself worked 7 days a week and was available to her clients day and night, without relying on a salary, overtime or any compensation. She moved out of her own home and set it up as a crisis shelter for children who could not be cared for anywhere else and children who were under the guardianship of the Youth Care Office.**

**Yvonne B.'s lawyer, Marjolein Dikkerboom of KHDS lawyers in Amsterdam, will be available for comment after the hearing on April 1.**

I was once asked to join the SP. I politely declined. I did not and do not dance to the tune of others and I am so glad that, despite everything that has happened, I made that decision then. I would not dare to look anyone in the eye anymore than I do now. I would not be able to explain to anyone why I would still be talking to Martin van Rijn while I would prefer to pull him over the table because of what he is doing to all these families and children. I would refuse to communicate with Per Saldo and immediately sideline the SVB. I would be thrown out with severance pay or receive a fat bonus. In prison I received twelve euros a week for twenty hours of work but I really earned that, unlike all those talkers in politics.

**April 1, 2016**

Restart

**Press release Friends of Tom**

**Three years ago, on April 12, 2013, the Friends of Tom Foundation was silenced. Dozens of children and parents were left without care.**

**Despite all the reforms in the healthcare system, the care for children and young people with ASD (Autism Spectrum Disorder) and/or another psychiatric disorder has deteriorated. Partly because of these changes, the Convention on the Rights of the Child (CRC) is still being violated on an almost daily basis. Unfortunately, we all know the stories of children who do not go to school (home sitters), of parents who, in their desperation, do something to their children and of children who get lost in the healthcare system and do not receive the right help or no help at all.**

**Friends of Tom will therefore continue where it left off three years ago, with a significant expansion of the care offering. Friends of Tom picks up where regular care providers (due to care burden, placement capacity or financing problems) leave behind. Founder Yvonne Brinkerink believes that the care for a child should never depend on an available or unavailable budget or its size. They work from the heart, whereby the factor of money is always of secondary importance.**

**Friends of Tom has no waiting lists and Friends of Tom meets all the requirements set by the Public Health Inspectorate.**

(The restart could not be made due to the enormous online bullying from Desiree. She uses her network to her advantage, she drags me through the mud online, she warns people via private messages and I am approached by complete strangers from the Twitter tea party, including so-called experts by experience who think they have a monopoly on wisdom because they have a child with autism. For now it is what it is, although it remains sick that this is happening).

**April 8, 2016**

After a few days of working non-stop, we've completely figured it out. Apart from the fact that I like my work with children, I had another source of inspiration: Desiree. After she publicly pilloried me again and continues to abuse her network, I think it's enough. I think I've been pretty nice and reasonable up until now, but after she put me down in a Twitter message two days ago as someone who "once again" made a mistake and openly called me a mental health patient, it was over. Yes, I have

PTSD and yes I have had that since I was twenty-one and yes it got much worse in prison but I don't know any care worker who abuses it in such a filthy way to use it against someone in her hate campaign. Apart from that I am no one's client or patient, it has nothing to do with my work but everything to do with not being able to be locked up and I want to talk to Mrs. Doremalen after she went through the same hell with her children.

What she said, you simply cannot do as a care provider and advocate for vulnerable children. It has to do with ethics and other difficult words that she does not understand, but the most beautiful thing of all is that Doremalen has so far always concealed her own active role in my criminal case. With the review, that will undoubtedly come out.

Meanwhile, five thousand blind and deaf followers are happily tweeting about how bad I am, which says something about their intelligence.

#### **April 18, 2016**

April 12th was three years ago that over thirty armed and bulletproof vested officers came to arrest me, risking their own lives, on suspicion of fraud. Six months of detention followed. After that I was allowed to go home for six months.

Two years ago today I had to report to the court and was arrested again on the spot and taken back to my justice hotel for six months.

Over time, much has become clear and it is becoming clearer every day. Just now I read about healthcare providers who are in trouble or are in danger of getting into trouble because they are paid too late. It is old news to me. That is why I had to start shifting. The Youth Care Office washed its hands in innocence and of course had the politicians on its side. It does not add anything to me anymore, but God help those people who are in the same trouble now. And when I read about so many nonsensical debates or parliamentary questions along the well-known path, I can only laugh about it these days. There is no cure for so much stupidity.

The Ukraine referendum, the child brides, the refugee agreement, the Demmink case...

When they locked me up they didn't know any better, that much is clear. You can't blame a mentally handicapped cabinet headed by a Tita VVD wizard, you can at most request care for them and guide them well.

#### **April 27, 2016 King's Day**

The weather in Kusadasi. Beautiful, warm and windless except for a local tornado in the center. The Ebru tornado, following the arrest of Ebru Omar, is raging at the ice cream parlor and in Dutch politics and media. I'm surprised that no ice cream has been named after her yet.

A bit of a double entendre that it is reported that she does not dare to tweet the cartoon from the *Telegraaf* but yesterday she did lash out strongly in the *Metro* as fuel on the fire. A bit of a double entendre also the attention she gets from politics. Of course they have nothing else to do. The fact that the *AD* reports that there are not enough people and time to tackle child abuse, for example, is indeed less important than Rutte trying to get Erdogan on the phone. And the fact that more than two million Dutch people live on or below the poverty line is no more than a matter of occasionally adjusting the figures. Priorities! I understand.

Meanwhile in Kusadasi life goes on. Ten months without income (yes, ice cream is not an option here), asking parliamentary questions when I find another gap in our carefully drafted rules and legislation in healthcare (not that anything happens with that by the way) or reporting to the ministry that there is an error in the Municipal INVIS system (which of course does nothing with that either) and enjoying the warmth with which the Turkish population and a few Dutch people treat us. Where the Dutch government has ruined my family and many other families with their pathetic rules and laws and especially the pursuit of them and kills everyone who puts a wrong cross, in my case it is the Turks who ensure that we are still alive at all. Maybe I should apply for political asylum.

P.S. Mr. President, if you decide to provide some income for my children and me over the last ten months, please send me a message. Maybe I can see my children again and have an ice cream with them. Happy King's Day!

April 28, 2016

Yesterday I had a forced quiet day. A bit of reading and writing and of course the only thing I can do here: be online until, the electricity was cut off and I could no longer charge my phone. Unfortunately I cannot pay the magic amount of two hundred and seventeen euros for six months of electricity.

My first thought was: Fuck it, I'm going to get some ice cream and pretend it's not true. In the end it was solved for the time being so that's besides the point..

In the evening I had contact with my children. Asked what they had done that day. Both nothing! Where Queen's Day used to be exciting and the necessary preparations had to be made in connection with his son's autism, they now both chose to stay home. The weather wasn't really nice either, I understand.

Of course I also followed the media a bit about King's Day. Nothing shocking except for the little man who was run over. I also followed the hysteria about Ebru in between. Hysterically the headlines in the newspapers were: EBRU STUCK IN TURKEY FOR AT LEAST A WEEK! Well, what did I think then.

How important. Apparently they haven't figured out the difference between being really stuck and staying overnight at the Hilton and eating ice cream on a terrace in Kusadasi. They could have locked me up for a year.

Meanwhile, in the Netherlands, freedom of the press and freedom of expression are violated every day, but no one cares, but let's leave that aside...

I accidentally discovered that I am not the only one who is at odds with Doremalen or rather she with me. Our self-proclaimed legal advisor has made even more "friends" with her elbow work. I wrote it before, I have time on my side, eventually everything will come out. All I have to do is stay alive and toast to the good outcome later.

**May 9, 2016**

Fraud. Let's talk about that. The new system allows any country bumpkin with a laptop to commit fraud until he or she weighs an ounce and no one checks it! As a good person, I of course reported this a year ago. I contacted the Ministry of Health, Welfare and Sport, the Dutch Association of Health Insurers, Per Saldo and the PGB fraud team. VWS was "not at home", the NVZ reported it and the fraud team has yet to call back.

Through an acquaintance I heard that there is a company in Utrecht that, among other things, cleans windows from the WMO and the PGB. Nothing strange if someone can't do that themselves, if it weren't for the fact that this company charges sky-high amounts and seems to milk people. Just to be clear, I don't know them myself. I don't move in the environment of scammers, fraudsters, etc., although some people think otherwise. Wondering how that is possible, after all, a contract with municipalities is required and a huge check, I started googling and emailing, sitting at home on the couch, and damn it, it is possible to register as a country bumpkin with a laptop in three hundred and ninety municipalities within a day. Without checks, without personal contact, but simply via email.

Simple. A child can do the laundry. Once in the system you can adjust whatever you want to adjust. You can upload all the logos and offer yourself as a prostitute if you want. You can also put the neighbor's car up for sale if you want, take everyone down, curse everyone, you can just do your divine thing, nobody checks it. Long live the system!

Furthermore, the PGB agencies, just like before the changes in healthcare, are happily committing fraud. Fortunately, I have never asked for mediation costs. Perhaps stupid in retrospect, because it was allowed as the largest PGB fraudster in the Netherlands

I hadn't thought of that, that's how good I am at fraud. I could have pocketed hundreds of thousands of euros with that alone. It's too sad for words, otherwise I would have the giggles. How do the PGB agencies tackle it now?

Now that agencies are no longer allowed to charge mediation costs and the PGB is no longer managed by agencies, agencies are asking care providers for an enormous percentage of fees. For some, this amounts to thirty to forty percent. They can't make it any easier! There is no legal stipulation about this, so it is allowed.

What is actually even sadder is that I warned them about this during my interrogations. Two years ago it was already clear to me that fraud in healthcare would only be made easier by the new system. Of course I put it to the test at the SVB and the Healthcare Office and damn... they are on their own island, display an arrogance that makes you sick to death and live completely past each other. For example, the SVB told me that my son had never had a PGB. I was asked if I knew what a PGB was. Of course I didn't know and I had it explained to me, as far as I could understand it because they didn't really speak clear Dutch. According to the lady on the phone, the PGB was intended to purchase care :-). When I started asking specific questions I was told that she would send me a brochure. Two days later I received blank contracts in the mailbox. The logic alone. Sending contracts while my son doesn't have a PGB and according to her never had a PGB.

The Healthcare Office is completely screwed. Their own employees have incited parents of children with a disability to commit fraud (which they still do, by the way), but to this day the door remains closed and they refuse any comment. Taking responsibility is something they have never heard of at the Healthcare Office, but they put people against the wall every day. For example, you have to respond to the letters they send within seven days, but they themselves have a period of six weeks, to give an example. Previously, the Healthcare Office worked with Morocco. All the accountability that came in was sent to Morocco and "checked" there by cheap labor. We are all now paying the price for the terrible mistakes that have been made there in recent years, because of course the Healthcare Office, the SVB and (formerly) BJZ do not make mistakes and if they do, it is covered up completely. They are all out to portray parents as fraudsters, and the press happily joins in, but they themselves made the mistakes.

I sometimes think... if the Care Office and BJZ had also been convicted, could I have let it rest? The answer is YES. Even though I moved PGBs and knew that I was not allowed to do so, the Care Office, BJZ and the ministry had known for years that I was doing so. There was no other way to survive with all those kids. The fact that they all sit in slick offices says more

about their way of making money than about me in my thirteen year old car and my own house as a shelter for children they could no longer accommodate anywhere. There are raining and raining complaints about the working methods of the Youth Care Office (Every child safe) and Care Offices and that while we have never received 1 complaint.

The longer I write about it, the more frustrated I get. Especially when you consider the situation at home and once again they make the same mistake. If they had asked me to think along and help combat fraud, I would have done so. I have always worked very hard to combat fraud in healthcare and fortunately I still am. For the third time in my life I could live like God in France in the Maldives and once again I am doing my duty. I am reporting a huge leak in the system. A leak of millions and eventually a leak of billions and nobody does anything about it. Very hard when everything has been taken away from you, very hard when you know that there is huge fraud and nobody does anything about it, but what prevails is disappointment. Disappointment because the country in which I was born is governed and works with people and a system that are out to destroy ordinary citizens, who violate children's rights and who deliberately and knowingly keep everything hidden because they are afraid to admit their mistakes.

If anyone at the ministry, healthcare office, SVB or the Public Prosecution Service is reading this, please know that I (of course my lawyers are aware of this), just like before my arrest, called you six times to report the leak, but you thought the coffee was more important.

Enough about that. There are good things happening at the moment. An important procedure has started and that is exciting enough to focus on that in the coming period. There is still a lot of trashing about me, even about when I was in the Netherlands and when not, as if that is also interesting, but I will help you out. I left the Netherlands in June 2015 and was there for the first time from fourteenth to twenty-eighth of January this year at the invitation of the judiciary and the Public Prosecution Service, who after three years with three different judges have come to different conclusions.

**June 23, 2016**

The (mis)management in youth care in Almere.

The title says it all. When I started Friends of Tom, I thought I could still improve the world and, with a lot of patience, explanation and mutual understanding, bring care providers and parents/guardians closer together. Full of enthusiasm, I went with a mother to a meeting at the Youth Care Office in Almere. It concerned a single mother who was close to despair. I had met her at the nursery school for children with behavioral problems where my own son was. We met a somewhat older case manager (later I often met this case manager in connection with a child with OTS who had been placed in our shelter). She started with questions

ask. I let mother speak. It soon became too much for her and she was overcome by emotions and shame (she was not used to asking for help) and she shut down. What the case manager said next I will never forget. She looked at me and said: It seems clear to me that mother is not capable. I am not easily silent, I am quick-witted and witty but I was stunned and silent for a few seconds. In the meantime my brain was working at full speed. A crying mother on one side (fortunately she did not realize what had just been said) and a case manager on the other side of me with a face that said: well, it is clear, mother cannot handle it.

A kind of primal force came up in me. I told her that she could do two things: Either she gave an indication and she would call it a day, or she could put what she had just said on paper and then I would hang her from the highest tree. Two days later the provisional indication rolled in to mother. Mother found good care for her son. We could not provide what he needed at the time. A year later the re-indication was no problem at all.

My own son. An IQ of 137, MCDD, ADHD, ODD/CD and a disharmonious profile with a gap larger than 23 came home laughing one day with the message: Mom, after the holidays I'm going to secondary school. Me: Yes boy, but not after this holiday. First you have to do group eight. As determined as he was, I left it at that moment. The next morning at school I walked to the principal and yes, it was really true. Son happy. I was furious (I acted happy towards my son, by the way). I told him I was proud of him, he just skipped a year. He was ten at that time. The drama that followed is too much to describe here, it was about a number of school years to holding his own to just imagine it, but together with the head of the GGD in Almere (Harrie Hendriks. Unfortunately, this man has since passed away.) we made a plan of action. I was going to "kick", he was going to do it properly to the alderman. Now you should know that the alderman in Almere had a position of power and everyone danced to his tune. For example, his daughter, with the help of her father, got a position after graduating that others would take at least fifteen years to get. The alderman was unyielding and so my son was placed at Aquarius. The director was great, understood my concerns (far below his level and in a class with fourteen and fifteen year olds) and was really well-intentioned. My son himself did not want to go. He was afraid of all those big boys and did not feel safe. I convinced him to go anyway and told him: If it goes wrong, I will be the first to pick you up, but you have to try. After 1 day he came home crying. His AJAX suit had been stolen after gymnastics outside and he had been beaten up by three children during a game of football. He did not eat anymore, he did not sleep anymore and he did not speak anymore. Done! He had tried. From that moment on he was a home sitter. After many conversations with those involved in Almere, a lot of media, a lot of throwing around of children's rights, Almere chose to play it safe and placed him in a school where he has been doing great in recent years despite my detention and absence and despite everything he has been through, he has become a wonderful guy.

I could write a book about youth care in Almere alone. In eight years of Friends of Tom I have experienced super guardians and case managers

but unfortunately also enough employees who could not even write a report properly, mixed up the names of young people, did not contact them for months, had no idea what a diagnosis meant and considered their social card as their most sacred possession because they could not do their work without it. I have seen hundreds of families pass by. Sometimes they came for advice, sometimes they came for help but mostly they felt alone and misunderstood in the care of their child and the people they were supposed to help they gave the idea that they were "bad" parents. I deliberately limit myself to the above. The first part concerns a mother who never purchased care from Vrienden van Tom, the second part concerns my own son. The moral of the story is that, even today, nothing is self-evident in Almere when it comes to children. Another small example: a behavioral scientist who, after not having seen a child for seven years, asks: Isn't it time to place him out of the home? Then wants to discuss the level of the indication as if it were a second-hand sofa on Marktplaats. To be on the safe side, there was a lawyer and the therapist present in that conversation, I could already feel it coming. We walked away from that conversation with mother, saying that as soon as she had herself under control again, we would hear from her. That same afternoon at four o'clock I received the reassessment by email. They were not so happy with me in Almere.

There is a missing piece in my conviction. That has been established but not taken into account. After investigation it has become apparent that Friends of Tom and fifty-two employees have provided more than two million in care that has never been paid. That has now become clear and demonstrated.

**Press release, September 18, 2016**

**State Secretary Van Rijn was very keen to tackle the PGB fraud. Twenty-two detectives were appointed to track down the fraud, while it now appears that this fraud with PGBs is less than 0.04% of the total healthcare fraud.**

**Yvonne Brinkerink, a care provider for children with an ASD disorder and/or other disorders with her foundation Friends of Tom, was the first to be arrested. Under a lot of media attention, which raided the house at the same time as the police and were present at the house search, the Public Prosecution Service made everyone believe that Brinkerink had gambled away everything. She was hung from the highest tree and sentenced to twenty prison sentences, six of which were conditional. One hundred and forty-eight families ended up without care.**

**sitting, fifty-two employees lost their jobs and Brinkerink lost everything she held dear.**

**Three years later, boxes of unprocessed administration suddenly appear from a dark corner of the Public Prosecution Service. A total of €672,000.00, almost the entire amount for which Brinkerink was convicted.**

## **Brinkerink never accepted her conviction. As it turns out, rightly so!**

Crime reporter Henk Jan Korterink wrote about it on his website. <https://www.misdaadjournalist.nl/2016/09/bonnetjes-bij-de-vrienden- van-tom-drie-jaar-in-een-hoekje-bij-het-om/>

**September 30, 2016**

I always knew. Yes I gambled, Yes I went to the casino.

Holland Casino, of course, which is owned by the Dutch state but not with healthcare money and not five, six or seven tons. I have been there (I don't think it's a problem, it's a public place) and believe it or not, I usually ate a satay there with friends, we played for a maximum of €100.00 (our own money) and then we left again to walk around Amsterdam. A pleasant side effect was that you could withdraw a lot at once in Holland Casino (receipts available) and when checking in at Center Parcs, for example, for groups no more than a maximum of €2500.00. Since the groups needed a cash budget, I sometimes withdrew it at Holland Casino. All receipts for that are available in the administration.

In January, when the judge ruled on the confiscation claim, the claim amount was already reduced by more than two hundred thousand because, he stated, it had not been proven that I had gambled away five, six or seven hundred thousand. I have a surprise, I don't have that either.

A lot is happening at the same time, but this time in a positive way. Yesterday morning it was established that there is indeed almost seven hundred thousand euros of unprocessed administration. The reason for this is probably that not all the administration was seized at once, but part of it only after my arrest at the accountant's. This administration only recently came back. Whatever the reason (I do have my thoughts about it) is not important for now. The fact is that it has been established that it has not been processed.

Online I am being "judged" on, among other things, sound fragments from the courtroom. Immediately upon my arrest I indicated that I had a serious form of PTSD. When I am locked up I do not function. That was known. I indicated it during every interrogation. It also emerged that I made statements about certain things that were investigated by a police judge. That investigation showed that lists of names to whom care was provided at the time of my arrest were used by the Public Prosecution Service to prosecute parents/guardians. These lists also ended up at the Healthcare Office in some obscure way before I was convicted.

I still suffer from bashing. Always by the same group of people and always directly related to Doremalen. Also on the part that Henk Jan

What Korterink recently wrote has been responded to again by the same group. These will be their last convulsions. Those who are still participating in this can expect a letter from their lawyer. Furthermore, more than seventy screenshots have been taken over the years. Something will actually be done with them in due course. Bashing someone online in a group is so 1993 and so terribly childish. And then they call themselves adults and pretend (I wrote this before) to protect the interests of vulnerable children. Shame on yourself!

The last few days have been another rollercoaster of emotions. So intense that when it was said out loud that it had indeed not been processed, not even by the FIOD and VWS, I spontaneously threw up. I literally and figuratively became ill on the spot. Everything passed by like a movie. My arrest, a year in custody, my crying children who came to visit my mother in prison, that I woke up after an overdose in the Intensive Care, the terrible smear campaign that was subsequently waged against me online, the judging and condemnation by family, the neighbors, employees of the Municipality of Almere and so on. Apart from a group of people who believed me and kept me alive for the last fifteen months, we have more than seventeen million judges in the Netherlands. About keeping me alive, that is still happening now.

I suffer terribly from flashbacks, currently sleep four hours a night (PTSD) and all sorts of things go through my head all day long. I almost crave Diazepam or something to get peace and clarity in my head. Many positive reactions too.

Yet, despite the fact that the end is now quickly in sight, I am broken. I burst into tears at the strangest moments. When my son says: "Mom, I love you" I break down. He was twelve when I was arrested. Locked in his room by men wearing bulletproof vests and armed. The only stable factor in the life of son and daughter was taken away in a blacked-out car and the next day the newspapers and news bulletins headlined with their "million-dollar fraud".

My children were taken care of from that moment on, raised by friends and my family, with whom I had not had contact for fifteen years and I heard about it from my lawyer who came to visit. I missed my son's reports, my daughter got her driver's license, a good friend died, my father died and I was not there. What was taken from us and others can never be made right.

No amount of money in the world can turn back time and my children, everyone involved and I can enjoy life carefree again. The fear will always be there. The fear that your freedom will suddenly be taken away, the fear that your mother will suddenly be taken away, the fear that your world will cease to exist at any moment of the day.

**November 15, 2016**

It took a while but now I could. Finally I could announce that I am the founder of the Party for Children's Interests (political party) and I had

never thought about it but last night it was pointed out to me that I am the first in the world to have founded a political party for children which says a lot about the other parties. The website of the Party can be found at: [www.kinderbelangenpartij.nl](http://www.kinderbelangenpartij.nl) To be honest I expected some negative reactions but so far they have not happened. The reactions have been really great so far.

I was recently asked to update my blog and I see it has been a while since I have done so. I will try to keep things brief.

The administration that has surfaced represents a value of € 671,716.40. In the end, my children and I lost our lives for the ridiculous amount of less than € 12,000.00 in eight years with fifty-two employees and almost one hundred and fifty foster families. Anyone else would have been fined for that (except if you work in the port of Rotterdam or as a civil servant in Amsterdam can embezzle millions with your colleagues of course) but because our "economist" and State Secretary Martin van Rijn needed a scapegoat, it was decided to victimize and criminalize me (and everyone around me). Everyone makes mistakes, including Rijn. The fact that this is at the expense of healthcare in the Netherlands and that people are currently dying or committing suicide as a result suits him just fine. That saves on the budget!

It is still quite a task to find a revision lawyer. Also quite strange.

If you are arrested by thirty-two heavily armed men in bulletproof vests on suspicion of fraud, then you have to be accommodated in a justice hotel, you are interrogated for three hours a day by two men, the entire media is called out, the court crew consists of at least six men, the public prosecutor makes it almost a full-time job and a personal vendetta to convict you and you are given a lawyer paid by the state, no expense or effort is spared, but if you then come up with evidence that the largest part was set up to hang someone and that (PGB fraud) is used as a reason to let people with a PGB die, suddenly all doors are closed and you have to bring between ten and €50,000.00 to get that before the judge. What do you mean by "democracy"?

I am quite curious how they deal with a few "things" in a revision process. To give a few examples:

- Manipulating and not accurately displaying the wiretapped conversations
- Informing the media before my arrest
- Portraying me as a flight risk while I reported myself four times
- The criminal file on the Healthcare Office's desk before I was even convicted
- Health care office that uses documents from criminal file against parents also before i was convicted
- Refusing witnesses such as the Health Care Office and the guardians of BJZ

- Knowing that the cowards in my case (Doremalen, Moesbergen and Assenberg) lied during their contradictory statements
- Arrest me again after the verdict while real million-dollar fraudsters (including my own colleagues in the Public Prosecution Service, politicians, civil servants) are allowed to await their appeal in freedom or, even worse, you never hear anything about these cases again.

With three new nova I have a reasonable chance of revision in any case. It has all been said and written before. Nine Kooiman was in a hurry with parliamentary questions about me. The answers to those have undoubtedly caused a lot of frustration on the red plush. I am still waiting for someone in that group who has the guts to ask parliamentary questions about what really happened, but the elections are coming up so that is certainly not going to happen.

# CHAPTER 15 – TROPICAL YEARS 2017

OPGEJAAGD



DOOR DE OVERHEID

-TROPENJAREN, WE SCHRIJVEN 2017

Tropical Years 2017

August 4, 2017

Where do I start? I'll just continue from November 2016, the last time I wrote.

We won the elections with the Party for Children's Interests. Under an "umbrella" with three other parties, but we participated. I was the party leader and of course we did not win a seat, but that was not the expectation. In the Netherlands, politicians talk about "children's interests" when it suits them, but that is as far as it goes (except for Demmink). There was no money for a campaign, I could not go to debates, but the goal was to shake up politics. That did not work either, by the way. Children's rights are still being violated on all fronts.

At the time that happened I was "living" with my son in a house that was paid for by friends. I was registered in the Municipality of Ede. Ede wanted to have a conversation with me and my son. When I got there, there was the head of the Intervention Team, Timo Otten, Ineke (head of social services) and another vague man whose name I don't remember. My son was really bad but had to be there

are. A kind of cross-examination started immediately. I was portrayed as a serious criminal and I was asked questions that would not make the dogs eat bread. Of course I asked to be interrogated because then I wanted to call my lawyer, but I was assured that was out of the question. After almost two hours they were done and I was allowed to go. I was also told that I was no longer allowed to drive a borrowed car, that my accommodation could no longer be paid for by others because that was income and I was obliged to hand over my medical data in connection with the housing offer with son in Ede. If I did not hand that over, I would not receive any income either. Incidentally, my son was not welcome at first. I was allowed to stay in a four-star hotel at the expense of the Municipality of Ede until there was room, but without my son. Not an option of course and I refused. After the conversation the vague man turned out to be a detective.

This conversation took place the day after it was announced that I was participating in the elections. Immediately after that conversation I was stopped and arrested. Just picked up from the highway in a traffic jam by a motorcycle cop and into the police car with my underage son. Two hours later I was outside again. Thanks to my lawyer.

The next morning I was rudely awakened by the police who were banging on the door of my accommodation. Fortunately, my son had gone to stay with a friend the night before. When I opened the door, there were two police officers and a man from the crisis service Youth Care Overijssel because, as he said, he had received a crisis report from the Municipality of Ede, Timo Otten. My son would have no roof over his head, no food, no school and I was suicidal according to the report. After a good conversation, also with my son who was picked up, including discussing everything regarding email correspondence (which raised eyebrows in connection with the four-star hotel and my son who was not welcome in Ede), everything was declared safe and they left again.

By the way, that suicidal bit comes from the medical records of my detention. Panic in connection with PTSD is seen by the justice department as suicidal, but that is inevitable with those highly educated people with the IQ of a peanut who run pedophile networks. Timo Otten has seriously abused this and portrayed me to the Council for Child Protection as an unstable mother who is suicidal. A mother who took care of children with a UHP for years and was barely paid for it while the Youth Care Office (part of the same justice department and VWS) pocketed at least five to 8000.00 euros per month. Ede had big news for me less than a week later.

I was allowed to live with my son in a one-room apartment on the eighth floor (that's where you put people who you think are suicidal) and so I moved with my son to that cell (my cell was bigger) and slept on the floor. My son in a single bed that was in the same room as where we lived. That cell was housed at the Johanniter Foundation. My entire income was transferred to that foundation by the Municipality of Ede and I initially received €79.00

per week to live on with son, later that became € 39.00. There was no money to pay for health insurance. Son had to go to school there but first the director was ill, then the municipal employee who had to be there was hit by a car and the third time I was in the hospital myself. There was of course no replacement for that employee, that is possible at the municipality and so all appointments were cancelled one by one. It was my network that kept us alive, that paid for the medicine, that made sure that my son and I did not lack anything.

Well, I couldn't say that out loud because in Ede they consider receiving a bunch of bananas as income and so I would be cut.

The bullying started again, except now they knew where I was and could pick me up at any moment, just because they could and liked to.

An MDO (multidisciplinary consultation) was planned. I accidentally found out about it but the head of intervention Timo Otten did not allow me to attend.

An MDO is there to get everyone on the same page. Apparently not mine while my son was with me. Later it turned out why I was not allowed to be there. The Child Protection Board had been invited. And not just any local board, but the high-risk team from The Hague. They are deployed when there is an increased risk of abduction or with public figures (so I was told on the phone, the conversation was recorded). Abduction was already out of the question because my son is sixteen, 1.92 meters tall and has an IQ of 137, so you don't just take him under your arm. Less than a week later (I still have to receive the MDO report by the way) the Board called. They were coming by, on Thursday at 1 o'clock. I explained that I also had an agenda and that I wasn't dancing to the tune of a bunch of idiots who let themselves be guided by an intervention worker who couldn't even write proper Dutch and has it under his elbows. The appointment was rescheduled. In the end I never saw them but I received an email that my son had been transferred to the high-risk team in The Hague. The risk of kidnapping, neglect, etc. was too high, so it became an emergency report. Three MONTHS after the EMERGENCY REPORT, the Council called. Two days before the elections in which I participated. To make a long story short. My son received an OTS. The report that was written is of course full of errors. I also have multiple psychological disorders according to the report. Not substantiated. I am aware of 1 disorder, which is PTSD. I may have forgotten the rest of the disorders in connection with being unstable according to Ede and the Council. I did not object. It costs a lot of money and time, and by the time that has been fought out in court, my son will be thirty-two. He will be eighteen in a year, I think that's fine

Like this.

Son himself pulled a stunt with his OTS. He took his passport, went to Düsseldorf and took a plane. On his own, with OTS. (Nine Kooiman, you are the one who asks questions in the House of Representatives, I would say, ask them!). In other words, you give a child an OTS to guarantee "his safety" and then he just walks across the border and gets on a plane. Everything is perfectly arranged in the Netherlands, it's possible! Less than three days later, the guardian was on the phone. Son had to go back immediately or I would be charged with kidnapping. I explained to her that she didn't impress me and wished her good luck. Nothing more of that

heard her. Incidentally, no treatment plan received either. That must be on the table at an OTS within six weeks. The fact that it is not there is enough to have the OTS declared invalid, but that probably won't happen before he is eighteen. Until then, I grant them the money they get over their heads.

In the meantime, something else was going on. The UWV. In August, I was completely declared incapacitated by the UWV doctor. Not even a day later, a confused person from the UWV in Groningen called to say that I was fully approved. I will spare you the details, but after two hearings and a lot of fuss, I was again completely incapacitated. My WAO was paid retroactively and gross to the Municipality of Ede. The same Municipality that paid me €39.00 per week and let me and my son die in a 1-room shack. Talk about fraud and deception.

Ede was no longer an option. I felt unsafe, was approached and treated like hunted game and my son was also under fire. My son went back to my father until I had things under control. He didn't want to and neither did I of course but in terms of stability, school and structure it was better for that moment. Once again we were roughly torn apart. There was no other option than to leave again. Under the bridge was not an option. I was in the hospital with pneumonia and later with failure in both legs. I left. With nothing. In the meantime I had fortunately won the hearings so income, I thought. Not so because that was simply confiscated.

Zilveren Kruis has also promised itself a joke in the meantime. I had to report my income. I don't have that, I didn't get anything after all, so they just deregistered me completely. At the moment I don't have basic insurance anymore. Every Dutch citizen is entitled to basic insurance. I don't. Maybe I should just trade in my Dutch passport and apply for political asylum here.

That puts "democratic" Netherlands back on the map.

## **September 6, 2017**

The fight continues. Now for WAO retroactively. It is time that there is understanding for people with PTSD, especially from psychiatry, the UWV and other executive bodies such as the municipalities.

Dear Judge,

I once developed PTSD after experiencing some horrific things. Reason for the UWV to declare me completely unfit for work at the time. I was also declared unfit for work after reassessment. I have been in treatment several times. From individual to group therapy to EMDR to think of it and I went for it. I even followed robbery training in the hope that I would at least get that bit of trauma under control. Just as many times the blow was all the harder when it didn't work. Knowing that your flashbacks, your nightmares, your concentration but especially your

fear will never go away, feeling like you are not “normal”, always being alert and keeping an eye on the door/exits, being so scared when there is a loud noise that you immediately go into survival mode, you can never go anywhere alone and you can't be home alone in the evening because you completely panic, you switch off your feelings and get tunnel vision and so on make life tiring. It drains you. You don't have the energy to make it to the end of the day, the feeling that you are not really participating in life but floating somewhere.

Sometimes I say when I try to explain what makes PTSD the hardest to deal with: that you are there but at the same time you are not. You register everything (with serious shock reactions or fear I hear nothing anymore, I only register visually) but it feels like you are not part of it. Exactly the same thing that happens in my nightmares by the way. I will spare you the details because they are too horrible for words but even in my nightmares I register everything and I am not “really” there. Psychologists/psychiatrists explain it as powerlessness and I think that is the only good word for it. You stand there and watch, both in my dreams and during the day when I am awake.

I had two children. My son became so seriously ill when he was nine weeks old that we had to say goodbye. I was powerless. A year later my daughter got meningitis and we had to say goodbye to her too, she was five years old. Again I was powerless. Fortunately, both survived. Both with limitations but hey, who doesn't have them, we made the best of it. I adapted my life in such a way that it was possible to live alongside the fears. My daughter was then molested, she was eight years old, again I was powerless, I felt like a failure as a mother because I couldn't prevent it. Life went on...

In 2013 I was arrested. Long story, I won't go into the details here.

They locked me up, in all restrictions at first and then 23/7, twice for six months alone in my cell. Locked up, I couldn't eat. In total, I lost between sixty and seventy kilos in two times six months of detention. I wanted to eat but I couldn't. My children came to visit (now twelve and sixteen years old) of course. After the visit, I regularly went to the iso, devastated with grief, to prevent myself from doing something to myself. Not because I wanted to die as stated in the detention report (suicidal) but because I started hurting myself when I was locked up to no longer feel the mental pain and powerlessness. At one point I had decided and was absolutely convinced that if I were dead, my children would be very sad but at least they would be able to continue with their lives. Now they were constantly confronted with a mother in prison, they were followed by the media (among others, the minor daughter was on the front page of the *Telegraaf* Saturday edition and my son was chased by a camera crew to the school door and I could do nothing to help them except die so that they would have peace. Wanting the best for your children in the most difficult circumstances, as twisted as it may sound. What I write here does not even begin to cover it. The loneliness, being locked up, my wrist through

cutting and taking an overdose were pure panic and fear and had nothing to do as was suggested at the time between guilty or not. You can't turn off your head and thoughts, you can't put things into perspective anymore. Mind and heart don't work together anymore.

In detention, the WAO was also stopped. When I reported to the municipality after my detention, I was told that I could no longer return to the WAO. I have been convicted of social offences, including WAO fraud. The review may make it clear that the last word has not yet been spoken about this. Incidentally, I withdrew my appeal, also due to the PTSD on the advice of my lawyer because they feared for my life. I had to await my appeal in prison and there came a point when they wanted to transfer me to the prison hospital in Scheveningen because I had lost so much weight, could no longer get out of the panic and therefore started to hurt myself that the guards (who ultimately saved my life) could no longer guarantee my well-being and safety.

Broken, with heart problems, two sick children at home, no income and completely panicked and disoriented I came out of detention. I was on my own. My son was no longer receiving care because his mother had committed fraud with all the consequences.

For the first time in my life I asked for assistance. I was immediately registered for PTSD treatment but it was too intense, after each session I came home completely broken and that remained the case until the next appointment. At night I woke up upset from the "phone conversations" I had in my sleep from prison with the children. I was home, hip hip hooray but don't ask how.

Within a month I collapsed and the children called 911. Heart problems. I was catheterized but again my children were home alone, again I could not help them and be their mother. The children screamed for help but no one helped them and I could not. I gave everything I had but it was not enough for what children that age need in terms of care among other things.

Our friends provided food, I could no longer pay the bills and eviction was imminent. I was not living, I was surviving in my "tunnel". I could not see anything, was paralyzed and broken but had to take care of my children one way or another. That and that alone kept me a little bit upright

In August 2016 (1.7 years after the end of my detention) a municipal official told me that I would have to go back to the WAO. I wrote a letter to the UWV and was invited. Between the letter and the invitation, the WAO was restarted, but a month later after a reassessment it was stopped again. The man from the UWV who told me that said that I could do special work, as an example he mentioned packing and cleaning screws (asthma and COPD) and that I could be picked up and dropped off by special transport from the WMO. The conditions at the workplace were that I could walk away from that place when panic struck. I appealed and there was a hearing. I won this and the WAO started, retroactively, from the moment I sent the letter to the UWV. I had to pay back the social assistance (which I did not receive by the way) gross to the municipality. In the Netherlands, however, I could do with € 884.00,

homeless and sick (recurrent cancer, COPD and CPTSS) not lying under a bridge and I left for Turkey. Incidentally, not in connection with emigration as the health insurance company would like you to believe, but purely because I do have a roof over my head and food there. Reason for the UWV to stop my income (even though I have and had a postal address in the Netherlands) and after a lot of emailing and nagging to start it up again. Again a lot of extra stress and still sick. It was during that period that I was admitted to the hospital in Turkey.

No health insurance and no income.

Dear Judge, I have had to say goodbye to my children again simply because I cannot take care of them, I have lain on the beach between the Syrians due to no income, slept under a bridge, suffered from hunger, borrowed money from friends to survive and all that time it turned out that I was indeed entitled to go back to the WAO. Call me confused, call me suicidal, call me what you want and indeed everything that is said about that period is correct unless you know what PTSD entails, you know what it does to people, you see the seriousness of it and you realize that I have been walking around with it for almost thirty years now. That nothing in life is "normal" and goes on, that you are always alert, even in your sleep, that you sit by the door in a restaurant and cannot chat with family or friends without inhibition because you "screen" everyone who comes in, that you regularly drift off while conversations around you continue, that you have become a visual thinker and that this is sometimes hilarious but usually terribly frightening, that you cannot watch a film or read a book without getting flashbacks and that you do not even watch programs like Opsporing Verzocht because you know that you will hardly sleep for a week afterwards, that you do not undertake things simply because you have no control over situations outside the home, that you say to your children: nice darling, go there and inside you scream: Don't go! That you can't swallow a bite without knowing that you can go outside at any moment, that you no longer respond from your heart or mind but purely from the instinct for survival (even if nothing is wrong at that moment), that you can't concentrate for more than five minutes and that between two and four in the afternoon you are so exhausted from thinking that you no longer have control over your body and are completely empty.

The fact that the UWV refuses to grant me WAO from the end of my detention feels like a knife in my back. As if PTSD (not to mention the asthma/COPD and recurrent cancer) has been absent for over a year, as if I went on a "holiday" and voluntarily went to lie down among the Syrians, as if I stole peaches from the trees because I liked them instead of being hungry, as if I borrowed money from friends for extra things instead of paying for medicine, hospital admissions, a roof over my head and food, as if I placed my children with family and a father because I had had enough of them. No, dear judge and employees of the UWV, that is not how it is. Every moment of the day my heart is ripped out of my body, when my son or daughter send me a message, no matter how nice, tears run down my cheeks, sometimes I even panic and have to call someone to get out. I go back in time in my mind, have flashbacks and feel that helplessness again. If I had received regular disability benefits after my detention and the six months that I was at home between detentions, I would have

nl just being able to have my children with me, feed them, keep my rental home, not have to steal food etc.

I am in Turkey now. Not on holiday by the way. I don't know if I will ever be able to return or not. In the Netherlands I will not be eligible for housing for the next twenty years, apart from that I am afraid in the Netherlands. Here I sit on my balcony all day. I even eat outside in the pouring rain. There is no treatment here, in the Netherlands there is enough but they couldn't help me there for almost thirty years and I don't want to be a guinea pig for all kinds of new "treatments" anymore. For myself I find a way to survive every day, I have the space to avoid situations and thus stay out of panic, I have forced myself all those years to take steps that others expected of me. I can't do it anymore, I'm done. Tired of trying, tired of fighting PTSD, tired of all kinds of discussion groups, individual sessions, EMDR, drawing. Think of it and I have done it. Sometimes institutions also have to accept that people simply can't do it anymore and stop forcing. By doing that you can also drive people to their deaths. If I now have to choose between WAO and compulsory treatment or lying on the beach again, stealing peaches etc. then I choose the latter. I have accepted that it is what it is, it is time that the UWV does that too!

December 11, 2017

### **Whistleblower**

It was a few turbulent months again. Illness, my son's birthday, the long fight for justice and nothing that goes smoothly. Revision takes a long time and after watching: Innocent on RTL4 my courage sank into my shoes. I almost became depressed when I saw how long revision took for some. Of course, PTSD also plays a major role in this.

At times, it becomes clear to those who are working on my revision what exactly happened in the previous years. For example, emails surfaced from the archives of, among others, members of the House of Representatives from 2009 and 2010. Emails that did not lie. Emails in which I stated that I was fighting for children who were wrongly in prison instead of in an AWBZ institution, emails to guardians of children placed with me in the emergency shelter for which I held the government liable and then there were also my actions. I removed children from prison, put pressure on guardians, regularly raided a Youth Care Office or CIZ office and refused to leave until a solution had been found for the pupil under their responsibility. In short, I was "annoying". Rouvoet and Donner had to deal with me during the evaluation of the Youth Care Act, my book: 'Difficult for themselves and their environment' was published (they didn't do too well in Youth Care either) and I did with little what they could not do with all their millions. Nowadays there is a name for people like me: **Whistleblower**.

I was arrested on the orders of the Ministry of Health, Welfare and Sport, among others. VWS works with the justice department when it comes to children. Children who receive an OTS or UHP are transferred from VWS to Justice, which then receives money for them.

However, these children also need to be provided with all sorts of things, there are case managers and guardians working for them, offices need to be rented, lease cars need to be paid for and that all costs money and so the money from the children with OTS and UHP circulates between the ministries of VWS and Justice. We are not talking about a few million but about billions of euros per year. So it was in their interest that my head be cut off. That is probably why the press was already at the door before the arrest team arrived, that is why they lost their paperwork and that is why they neglected to request the cash payments from Center Parcs, I was not allowed to await my appeal in freedom and I had already been convicted before I was even arrested. I had no chance!

The bullying continues in the meantime. I have been arrested several times for nothing and released again, my son received an OTS in connection with the risk of kidnapping, I was almost forced to camp under a bridge in the Netherlands, etc. With the help of a super network for more than three years now, I am still alive. I will take the opportunity once more to thank them.

Furthermore, I wish everyone a good, cozy but above all healthy (except for a few people who I hope are slowly choking on their Christmas breakfast) 2018.

# CHAPTER 16 – LAWYER'S PLEA



**Lawyer's plea**

**June 30, 2016**

Finally, 3 years later, everything is complete and everyone can read what exactly happened. That I was a thorn in the side of politics already became clear during the evaluation of the Youth Care Act in 2010. Rouvoet was asked extensively how it was possible that I could do with few resources what politics could not do with all their millions. I was convicted, keelhauled by the media, publicly slaughtered and portrayed as someone who earned money on the backs of children. In the plea you can read extensively that this did not happen at all.

**COURT PLEAD NOTES**

in Utrecht Mrs. mr. MKJ D Dikkerboom

November 20, 2013, preliminary hearing;

October 7, 2013 second pro forma hearing; (adjourned until November 20)

August 22, 2013 Council Chamber;

August 8, 2013 Council Chamber; (August 12 to August 26, 2013)

July 19, 2013 first pro forma hearing;

June 13, 2013 Council Chamber; (suspended June 13 to June 20 in connection with the funeral of Ramon's mother)

May 22, 2013 Chamber of the Court of Arnhem;

April 25, 2013 Council Chamber.

Content-related:

April 1 and 4, 2014 regarding: Y. Brinkerink 16/993500-13

1.

Client never refused help to parents or children. "Everything I did, I did from my heart, I always helped all children, with or without PGB".<sup>[1]</sup> It was very hard work, with a lot of stress. There were always financial worries. Client worked 24/7 and became overstrained. She never said "no". She picked up desperate parents from train tracks, acted as an emergency service and was available day and night (appendix 1).<sup>[2]</sup> As an expert by experience, as a mother of overburdened families. "If it had been a mushroom farm" I would have stopped, but you don't leave children to their fate. BJZ always knew \*\*\*\* she knew how hard it was for and where to find client, for the children "that no one had room for". There were BJZ children without a budget, that was goodwill.<sup>[3]</sup> Client's house was sold during the process, by means of a foreclosure sale. This while the shelter had remained in the house since her arrest. Spirit had moved in there, with permission from the Public Prosecution Service. Oddly enough, for the use of that house

never paid the mortgage, while gas, water and electricity were paid.

Client has been portrayed as a flight risk PGB fraudster who has enriched himself with tons of social funds. Client is said to have real estate abroad, lead an exorbitantly luxurious lifestyle and make excessive expenses, including many junkets to Turkey. Traveling with 50-100 children with a disability or a disorder in your wake is anything but a junket. \*\*\*\*\* states that they worked 18 hours a day. The reason for the trips abroad was because competing organizations did this too and you have to go along to retain your customers. In fact, client rents a terraced house and drives around in a 13-year-old Jeep. The Turkish authorities have now confirmed that client has no real estate there, no boat or yacht registrations and no Turkish bank account.<sup>[4]</sup>

Client was “happy” with the audit (appendix 2)[5], which she still believes she requested herself. The audit was embraced, and even seen as a turning point.[6] All appointments were neatly noted in the agendas. Cash flows ran through the business and private accounts. It was only since 1 January 2012 that it has been mandatory for budget holders to use a separate PGB account. Since that same date, it has been forbidden to pay care providers or care providers in cash. If client had wanted to commit large-scale fraud, she would have handled it differently, much more conveniently.[7]

There is a structural shortage in healthcare. Also at Stichting Vrienden van Tom and Onzichtbaar Anders. VVT and OA were not created to serve as fraudulent practices. The fact is that she had no clue about finances. Her ambitions and interests did not lie there either. The client did not mince her words about that either. She knew her pitfalls in this and precisely to prevent financial ruin, the client had hired an accountant. Despite the assistance of the accountant, the administration was a mess. Shortages arose. The financial need became enormous, the water was up to her lips.

In the meantime, the holes were filled by making up for the PGB deficit of one child with the PGB surplus of another. The client obtained the money by making a 50/50 deal with the parents. The client now knows that this is not allowed and that it is punishable. At the time, she understood from both the care offices and BJZ that this practice was tolerated, as this was an opaque grey area[8].

The Public Prosecutor has come out strongly. The client is a professional fraudster who, through her sophisticated methods – a perverse mix of seduction and deception – tried to extract as much PGB money as possible.[9] Before we get to the facts for which the client is on trial today, I would like to draw your attention to the following. The defense has difficulty with the file and its creation. I have to do something about that and I am going to ask you to do something about it as well. I am going to request you to attach consequences to the actions of the Public Prosecution Service.

- Reason for investigation.

(1717) The reason was that the Tax Authorities had received information from two different people, including a former accountant, that PGB funds were being misused. This resulted in an audit by the Tax Authorities.[10]

- Assenberg and Moesbergen.

As far as the defense is concerned, the statements made by these witnesses should be viewed very critically. There are reservations about their credibility and reliability. Was it the sole motive of these persons to act as whistleblowers or were there other interests at play?

(2373) On November 1, 2011, Mr. Assenberg contacted the Tax Authorities in Almere by telephone to say that he had information about SvvT – he was Moesbergen's accountant at the time.

On November 10, 2011, Mr. Assenberg contacted us again by telephone. He states that the client wants the administration back. The Tax Authorities have seized the property due to arrears in payroll tax, and a sale was scheduled for October 2011. The sale has been postponed until 14 December 2011. Mr Assenberg believes that the Tax Authorities should act quickly because Shirley's Facebook page states that the client would buy a house in Turkey for around €200,000.00 in the weekend of 13 November 2011.

(2361) 16 November 2011 conversation report with Assenberg, Moesbergen and the Tax Authorities.

On 23 June 2011, Moesbergen left VOF OA. On 27 June 2011, she withdrew €5,000.00 from the bank account without consultation and took the lease car, the telephone and the laptop with her. A civil procedure is still pending regarding the settlement and liquidation. Assenberg had acted as liquidator without the client's permission. He is also conducting the civil procedure on behalf of Moesbergen (appendix 3).[11] The file gives reason to doubt Assenberg as a bona fide accountant. [12] The client states that she trusted him blindly and was the victim of this.[13] Moesbergen ran off with the client's concept and subsequently started to terminate ZIZ.[14] In doing so, she did not hesitate to approach the client's customers.[15] She even threatened to destroy the client. But she declares with a straight face that she had no intention of tackling the client.[16] At the time, the client attempted to report these abuses. She was sent away under the heading of civil matter (appendix 4).[17] In this file, Moesbergen submits a statement on behalf of someone else (Linda van het Schip) and it makes it appear as the statement of Linda herself. However, Linda herself does not know that statement, talk about forgery.[18]

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(294)\*\*\*\* confirms Moesbergen's smear campaign against the client. Yvonne is being threatened by ex-partner Saskia Moesbergen. In the past two years, all sorts of things have been sent to Yvonne, BJZ, the fire safety inspections (...) Somewhere in the past few weeks, threatening phone calls have come in. Yvonne and I have heard a man's voice say, we'll destroy you. (...) Saskia has been ill for almost 2 years.

The seized goods included a 2013 diary. It contains the exact dates on which the threats took place and the appointment with the police that resulted in a report (Appendix 5).

It seems that there is an interest in both Assenberg and Moesbergen to put the client in a bad light. This does not mean that

they lie, but it does mean that as far as the defense is concerned, we cannot blindly rely on the information they provided. Nevertheless, the statements formed the start of the investigation and, as is evident from the further reports, the information was also accepted as truth. (2374) The Moesbergen list was even used as a guideline for the investigation.

The posts on FB are considered to have strong evidentiary value. For example, requests for legal assistance are substantiated with photos from \*\*\*\*'s Facebook profile.[19] It is clear that Facebook is being monitored throughout the entire process (Appendix 6).[20] This is also evident from the indictment. The client also insisted that she has a Hummer. It may be a fact of common knowledge that Social Media is an excellent platform for bragging, or "boasting", to hide it in the words of, but it is much less obvious to give this publicity online.

to speak. In addition, as a client, really something

- Wiretapped conversations 1st

Prior to the arrest, several taps were run. In total, 489 conversations were made with the client's telephone, excluding the other telephone numbers. This during a period from 8 to 12 April 11 hours (1762). In less than 4.5 days, 489 conversations/text messages were made. This amounts to more than 100 conversations and text messages per day! This is not related anywhere. A brief digression. If lawyers correspond with each other and want to introduce this in a procedure, mutual consultation is held and permission is requested. If this does not happen, the lawyer in question is acting in a way that is worthy of complaint. The Public Prosecutor introduced "fraternal" correspondence without consultation and without permission. Your court is therefore aware that simply opening a conversation took 30 seconds. In 3 hours, I was only able to screen 30 conversations at the Fiod office in Zwolle. You also know that the Public Prosecutor did not proceed to provide the other conversations.

- 2ndThe importance of listening.

Less than 4.5% of all conversations were relevant enough to be included. And a selection was made from the content of the 22 of the 489 conversations. It is the task of the investigation to select the relevant parts of the wiretapped conversations and to display them in the file. "It is true that these conversations have not always been reproduced literally, because on the one hand the file would then become very thick and on the other hand this would not benefit the readability of the file". [21]You, the chairman, have already rightly suggested to the client that the conversations can in any case also be interpreted as - in her own words -

taxing in nature. In that case it is of the utmost importance to map out the entire context of the conversation.

- 2 examples sessions 10 and 12.

(2560) Session 10. Conversation 489. Discussion about “reporting yourself” and that the “police knew nothing”. Discussion about “was”, “chronically short of money, \*\*\*\* and that there is a shortfall of €10,000.00 begging BJZ to please pay”. “it has always been to the benefit and advantage of the children, a lot of care for children who do not receive invoices, comes from ZiZ again, threats by telephone and a report filed”.

(2562) Session 12. Conversation 359 total duration 24.08 min, what you find is an extremely summary: “Rob also advised me to deposit to private”.

Doesn't the same apply here: the client knew nothing about the ongoing tap?

Two examples that support the client's story and are therefore more than worth selecting and relating.

- Arrest and risk of flight.

In fact. Based on the ongoing taps, \*\*\*\*: “It is suspected that the suspects Brinkerink and \*\*\*\* will leave for Turkey. Conversations were listened to via the telephone tap in which suspect Brinkerink indicated that they wanted to leave and packed suitcases were found during the search.

\*\*\*\* also stated that they were about to drive to Turkey. The defense cannot avoid the fact that this suggests that the client wants to flee.

However, what does the wiretapping report of April 3 (!!) show for the tapping: “In the week of April 8 to 12, a number of budget holders will be heard in the context of the investigation. The investigation team would like to know whether the budget holders heard contact the suspect by telephone. The content of the conversations is of essential importance to the investigation team. It could provide a better picture of the actions of the suspect Y. Brinkerink and the budget holders involved. It is suspected that the suspect Y. Brinkerink and the budget holders involved have made agreements regarding the distribution of the remainder of the PGB budget and that it will be difficult to obtain clarity on this during the regular hearings”. And further.

“The investigation shows that the suspects Brinkerink and intend to marry in Turkey on April 23, 2013. Since the OT intends to arrest the suspects outside the act on April 16, it is important to know whether the suspects are still in the Netherlands at that time.”[22]

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On July 19, the defense states that the client was not on the run: “a wedding was planned and nothing more or less is the reason that the client wanted to travel to Turkey. The justice department just won't accept that last point. The defense has submitted a wedding invitation.” Now it turns out that this was indeed known to the

authorities and the Public Prosecution Service. However, on 19 July the Public Prosecutor still claimed that she knew nothing about the planned marriage, that there was a risk of flight and that this ground remained applicable until 7 October.

- In this context, the 3rd remarkable selection.

There are no less than 5 conversations in which the client tries to report herself, not only to the police but also to the ISZW and the social investigation department. These wiretapped conversations are not in the file. But the client has shielded herself with the self-reporting every time an appeal was made to the risk of flight. In addition, a conversation with \*\* in which the investigation and the threats and the false report by M are discussed.

366: April 10, 2013 from 21.07.38

Client calls Almere police station. She is told to wait

358: April 10, 2013 18.25.15

Client calls Almere police station. Client had already called this morning. An investigation into client has been started. Client asks if she can report somewhere. It is only useful if she reports when she is called, otherwise not. Reports that she wants to get married abroad on April 30. The message ends with the client being unable to be helped.

56: April 10, 2013 18.11.59

Client calls \*\*. Discussion is made about calling the police again, driving there. Where is it coming from today. Who is investigating. M filed a false report 2 months ago. Discussion is made about reporting the telephone threats.

97: April 10, 2013 13.27.26

Client calls the ISZW. What does client want to know? Whether there is an investigation into her and that she wants to make herself available for cooperation. Her name and telephone number are noted and the relevant department will contact her.

There is talk about her ex-partner who has been trying to make her life miserable for 2 years.

Reports are made to the fire department, etc. Parents are called in connection with PGB fraud.

The purpose of the client's phone call is asked. The client indicates that she wants to report, make herself available and cooperate with everything.

267 April 10, 2013 11.33.07

Client calls Almere municipality (social investigation department). It is said that client spoke to her lawyer after the calls from parents and that the lawyer had advised to report. Police station called. 3 clients were approached in Zwolle, Amsterdam and Nieuwegein. Consultation takes place and client is told that they will look into it and inquire what they can do about it and that she will be called back.

262 April 10, 2013

Client calls the police. She is asked if she is a suspect. Or if it could be something else. Based on NAW data, "we are not acting on it at the moment". It could be that another region is handling the case. Perhaps the social investigation department, there is no insight into that. Client says: "you know what, I want to report somewhere, I am getting married". Client is referred to the social investigation department.

\*\*\*\* also confirmed that the client wanted to report herself.

"Was Yvonne afraid that she herself would be questioned? In my opinion not because she wanted to report herself. She called the police in the morning and I think she called again in the afternoon but I can't say for sure. I believe that was on Wednesday. But the police couldn't do anything with it." [23]

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Client was in custody from the time of arrest until 25 April, the Public Prosecution Service had given permission for a camera crew from NOS to be present in the building from 10:50 to 11:50 to make recordings. During the same period, a journalist from de Volkskrant was also present, also with permission from the Public Prosecutor. In addition, the press officer of the FP was also present during that period (2191). Yvonne, her children and the other family and friends, all those involved with SVVT and OA and the budget holders heard the unmistakable suspicions in the news.

While the client was not allowed to say anything or respond to anything,

- Reporting and adding your own statement to the report of interrogation.

During the procedure (see interrogation, 6, 8, 10 and 11) the client repeatedly indicated that she wanted to file a complaint against Moesbergen and Assenberg, but she was not allowed to do so. (162) "I am angry that I was not able to use my right to file a complaint". (224) "To this day, I am still being refused the right to file a complaint against S. Moesbergen and R. Assenberg and I am told each time that the investigation is intended to establish the truth. However, there are contradictions in Assenberg's testimony. They said that they wanted to destroy me two years ago".

The 6th interrogation also states that the 4 pages of her own handwritten statement are added.[24] The client refers to this addition twice more[25] and is finally asked to make them available again. They had been lost.[26] The client did not have a copy of the original. They would not let her make one in PI Nieuwersluis.

- Comments on the file.
- The file is apparently simple and manageable. Clear too, it only covers 5 folders. The Public Prosecutor makes the following comment on this in the Rk of 22 August: "the councilwoman argues that the client is mainly needed to go through the 'large mountain of administration' of the foundations, because exculpatory evidence could be found there and the councilwoman could not make sense of it without her client. And that administration could not be taken in its entirety to the PI where Ms Brinkerink is detained. The final file of the ISZW covers 5 folders, so that the restriction that apparently applies to Brinkerink's administration cannot be considered applicable to the ISZW file". Mr President, behind the 5 folders is a seized shadow file of approximately 30 boxes[27].

From a total of 10, if not more than 150 folders of administration and files, a final file of 5 folders has emerged. Not to mention the unseized administration of which I showed you the photos on July 19, 2013. How many people worked on this case for the Public Prosecution Service? How many man and woman hours did the Public Prosecution Service have at its disposal? The client and I were together from October 7.

To translate "equality of arms" literally.

The client received 29 boxes of administration. Some folders were numbered and others were not processed. The defense believes that the seized administration was handled carelessly. To this day, the client has not received all of the administration back. The correspondence shows that the Center Parcs, Turkey, Disney, the Crisis Shelter, the VOF AO administration and the three folders with printouts of the private account have not been returned.[28] In response, the Public Prosecutor writes that two folders were found during a new search. Where the other folders have gone is a mystery. The two that did come to light have not yet been returned either.[29]

- Documents are also still missing from the budget holders' folders. This is important, as the client is responsible for the storage of the files for the legally prescribed period (Appendix 7).
- The client has been announced to undergo an intensive check by the Healthcare Office for the first half of 2013. She needs the care agreements and invoices, but they have not been returned.

- Folders of SvT administration 2008 have never been in the possession of Justice (appendix 8). Falls within the till period, but were not investigated because they were never confiscated. The client found these folders in the shed behind the Christmas decorations. I report this by letter dated 13 December 2008, submitted by the Public Prosecutor. I never received a response.  
The Public Prosecution Service can also only conduct a thorough investigation if it has access to all relevant underlying documents.
- Part of the file is provided by the Public Prosecution Service to the Healthcare Office and sent to the budget holders without being anonymised, in terms of privacy (Appendix 9). Here too, the Public Prosecution Service has a duty to handle the documents from the case file with care before providing them to third parties.
- Where are the private contracts? . But where are those of the client with the children of der B (3), Van G (2), De W (2), O (2) and U (2). These are children for whom the client provided private care and for whom she received compensation on her private account. This concerns tens of thousands of euros worth of care.
- Cash book

On November 20, the public prosecutor said: "cash payments and settlements between VVT and OA and Brinkerink cannot be investigated, partly due to the lack of proper cash administration." [30]

(2308) But the case file also builds on this. "A total amount of €193,933 was withdrawn in cash from the suspect's private account. During the investigation, no substantiation was found that showed the size and expenditure of these cash withdrawals."

(2308) and further: "Cash withdrawals also appear on the company accounts of the VVT and OA. This amounts to a total of €490,421. No cash administration was kept in the company administration and no underlying documents were found to substantiate any cash payments. The cash flows totalling €684,354 on both the suspect's private accounts and the company accounts cannot be attributed to the suspect in any way because underlying documents are missing."

This is completely incorrect with regard to both the private account and the business account. The client has from the outset emphasized the importance of her "receipts". Nothing at all has been done with these. While these are important for the credibility and reliability of the client, because they support her side of the story. While they show that the PIN withdrawals can indeed be traced back to costs in the context of business operations. The client can make more than €680,000 in cash withdrawals based on her receipts

account for. And what happens if we add the amounts €193,933 + €490,421 together? Then the cash flow totals €684,354.

The senior judge presented the total overview of the client's alleged expenses (879) on April 1, and it shows cash withdrawals for the amount of €193,933. This makes the overview defective as far as the defense is concerned and the underlying investigation careless.

"In the opinion of the Public Prosecutor, a package of receipts is not suitable as such to be added to a criminal file. A package of receipts is also not administration, since it is not a structured data file in which rights and obligations are directly visible. I also do not think that your Court is waiting for a package of receipts without the proverbial head and tail, especially since the evidentiary value of the receipts is currently unclear". [31] But now that it appears that the receipts substantiate the value of the cash flows in their entirety, this position cannot be maintained.

The Public Prosecution Service has linked criminal consequences to the cash flows. The Public Prosecution Service had all the receipts in its possession. The processing of the folders showed the defense that all administration was booked and processed, except for the receipts that showed cash payments. It seems that the Public Prosecution Service deliberately kept these receipts out of the final file. While the administrative folders were meticulously plowed through, the Public Prosecution Service chose not to map the cash flows. Not to make them transparent. The client feels that she has to prove her own innocence on this point. How do you explain to the Legal Aid Board that you want more hours in a case that covers 5 folders. To use the term equality of arms once again. If the defense had not toiled through the 29 boxes and had not added up the receipt administration and I can tell you that that was a painstaking task, then what the Public Prosecutor states on the overview p. 879 was taken for granted and there were criminal consequences and sanctions attached to it.

- Center Parcs.

Research results application claim provision of historical data Center Parcs de Eemhof. [32] Why are these findings not in the file?

The defense requested and received these documents (appendix 10). It turns out that an amount of € 121,499.40 was paid "on arrival". This could have been paid either in cash or by debit card on arrival. [33] Client also repeatedly states during her interrogations that she often paid CP considerable amounts in cash on arrival and if it was a debit card transaction, it was always paid into the private account. Attached are five invoices (2008-2009) stating that payment was made in cash (appendix 10).

- Gambling

The same overview (879) shows an amount of over €570,000 that was transferred to gambling sites. When the client is confronted with this during the 6th interrogation, she says: Yes, I gambled. I never saw how much, I can't tell you more about it. If you say an amount of €500,000, I'll be scared to death." [34]

1.(961) The UWV concludes that €535,556.00 was wagered on gambling sites from the *private account*.

(2607) gambling from private account €570,086. The amounts do not match and the difference is inexplicable, but there is more.

- Is the amount gambled now irrefutably established?

(1750) Payments via Ideal, both Aydin (two bank account numbers) Buckaroo, Docdata etc. Most of the bookings were not made directly to gambling sites, but via an "intermediate station". All the more reason for the judiciary to proceed accurately.

A total amount of € 143,829 was transferred to Docdata 395247799.

Docdata is not described in AMB 006.01 (1749 et seq.) gambling file.[35] More than 1/5 of the so-called gambling money went to Docdata. Docdata is linked to Bol.com, HP, Europcar and de Bijenkorf (appendix 11). Docdata is by definition not linked to online gambling sites.[36]

(2607) The defense discovered this by closely examining the gambling overview. What immediately stands out are the strange amounts: € 147.25 etc. Why would you gamble away such an amount? Gambling usually involves round amounts. If the defense discovered this so easily, why did the Public Prosecution Service fail to investigate further? Especially now that the accusation is so pernicious. Using public money to finance a gambling addiction.

Buckaroo 116537353 also not further specified (1749 ev). The site states that they have served 4,500 web shops and companies in over 8 years.[37]

Including online gambling sites, but also many other sites, for example, our office has paid for office furniture via Buckaroo (appendix 12). We also see unexplained amounts for Buckaroo that can refer to online purchases €59.50, €294.00, €91.00, €196.00, etc.

Ayden 132394782 and 565668625. In total € 304,485. The findings (1750) are incorrect. The transfers for Oranjecasino "ORJ" are precisely on bank account 515211796 Envoy Int. Not from 132394782 as stated. It cannot be checked that Ayden 565668625 is transferred to Stargames using

a code. Here again, it plays a role that Ayden does not only work for online gambling sites. The operation of gambling sites is just a fraction.

The investigation into the alleged gambling is flawed on all sides. The amount of 570 or 535 cannot stand. The investigation for which the Public Prosecutor is ultimately responsible is careless. It should have been established which bookings actually concerned online gambling and which online payments and/or purchases. In addition, the underlying bank statements are missing (lost by the Public Prosecution Service) so that the defense could not check everything. In view of this, *all* bookings must be reviewed.[38] Before we can arrive at an amount for which gambling took place. Before this is fulminated at the hearing and in the press, the latter damage has already been done and cannot be reversed. The client herself could no longer access the bank details.[39] The folders with the printouts of the private account that had been seized were never returned. Once again, the defense has no choice but to conclude that the Public Prosecution Service has neglected something here. An important point, as far as the defense is concerned, *one* to which consequences are attached.

- Then there is the question of whether it has been established that it was the client who did gambled. (Cf.) The fact that a mobile phone was used in a crime does not mean that the owner is the perpetrator. The case file gives every reason to make some comments on this.

(2632) complete overview of email addresses used for alleged gambling at Ayden. Do not belong to the client, yet considerable amounts of money were gambled with these accounts. This was indicated by the client during the interrogation, but the Public Prosecution Service did not see any reason to conduct further investigation.[40]

- Investigation of exculpatory material

1. The Public Prosecution Service has not conducted an investigation into the Healthcare Offices and BJZ to verify the client's story.[41] T\*\* \*\*\*\*\* was asked as a witness as well as the BJZ guardians, but rejected by your Court.

2.(163) I would like to make another comment. I have an email from BJZ from this year in which BJZ says that if I have too little money with a budget holder, that I could transfer it to a budget holder where I had PGB. This email, although the client's laptop was confiscated, has not been investigated.

- "Why would a customer pay for business care on the private account of an official of that company"[42] Because the client requested this. On the advice of Assenberg. Because the business account was seized. The Public Prosecution Service did not investigate whether the client's business accounts were actually seized. While Assenberg also reports this to the Tax Authorities.

- Why is the email correspondence with Assenberg not better mapped out? Now that his role in the whole is important for facts 2 and 3.

#### 1. Defence of inadmissibility of the Public Prosecution Service

The criminal file “is the spinal cord of the entire proceedings”. It is therefore understandable and predictable that the parties to the proceedings and more specifically the defence believe that it should contain all the information necessary to adequately prepare and conduct the defence.

Each bullet point in itself does not really affect the core of the client's rights as a suspect in criminal proceedings and no single bullet point is so obvious that it should lead to the Public Prosecution Service being declared inadmissible. That is also the reason why no preliminary defence was put forward. However, considering all these bullet points in their mutual connection and coherence, the defence cannot avoid the fact that only incriminating documents were selected from the multitude of seized documents and that no or insufficient attention was paid to other relevant and possibly exculpatory material. Furthermore, it was neglected to request information from the relevant companies, Healthcare Offices and BJZs, which could have shed a different light on the facts, given the defences that the client had already put forward during the interrogations, or to continue investigating other exculpatory leads submitted by the client (cf. ruling of the Limburg District Court on 28 February) [43]

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The Public Prosecution Service has neglected its duty to provide a complete file. All in all, it can be said that the investigation was one-sided. Your court is free to select and assess the evidence, but then there must be something reasonable to choose from. We must come to the painful conclusion that a sound, carefully and properly compiled final file is not available, now that it has been made plausible that some results from the various sub-investigations are incorrect.

The fact that a minimum position has always been assumed and that changes about which there was some doubt have been disregarded is at odds with the findings just presented.

A final file must contain everything that is reasonably relevant to the assessment of the facts, incriminating or exculpatory.[44] Then it starts with the fact that your Court may not be misled about the correctness of the facts presented. Particularly now that the Public Prosecution Service in the indictment pretends that the accusations and the total sum of money are only the tip of the iceberg, we must be able to trust that what is actually in the file cannot be tampered with. That there is no room for error. That the data from the individual investigations into the PGB fraud, the tax fraud, the benefit fraud and the money laundering are correct. Especially now that the complex of facts is so interwoven that the investigation results build on each other.

The result has now been that the client has been forced to prove her innocence

regarding the amount of the fraudulent acts, which is contrary to the requirements of the ECHR for a fair criminal trial. All things considered and weighed up, the omissions added together, have acquired a structural character. It can no longer be said that the trial was fair. Now that there is an accumulation of procedural errors and careless conduct by the Public Prosecution Service, the objective of finding the truth has been lost sight of, the interests of the defence have been seriously harmed on each occasion.[45] The principles of a fair trial have been violated, which ultimately means that the gross disregard for the interests of the client's right to a fair hearing of her case has been violated. The community in general, but the client in particular, has an interest in open, objective and complete investigation and in correctly and fully informing the judge.

Your court must weigh up the interests of society in prosecuting criminal offences on the one hand and the interests of both the individual suspect and society as a whole in a fair trial on the other. In this weighing up, the nature and seriousness of the facts for which the client is being tried are taken into account. In the case of a suspicion of murder, such a weighing up of interests may be different than in the case of a suspicion of a criminal offence without directly identifiable victims. [46] In this case, I request that you weigh up the interests in favour of the client and declare the Public Prosecution Service inadmissible.

- Fact 1: Forgery committed several times in the period from 1 September to 08 to 28-02-13.

In this context, the introduction to the indictment is particularly striking. Who seems to have the initiative to share? The budget holder. It is good to emphasize that the client did not put a knife to anyone's throat to cooperate, this always happened on a voluntary basis. This is also evident from the interrogations.

Wasn't the construction a situation that also benefited the parents? That could have been the motive.

The PGB budget holder is the standard addressee when it comes to the accountability forms. He or she must sign the accountability form themselves. The client does not have to place her signature under the accountability forms.

To assume complicity, conscious and close cooperation is required. In addition, there must be a joint execution of a specific criminal act, although not all elements charged need to be fulfilled by all co-perpetrators.

Fact 1 under points 1 to and including 9, reference. Although the client would like to see it noted that children who have not yet been diagnosed, because this process sometimes takes 6-12 months, do not automatically fall under the heading: "children who have nothing wrong with them".

Fact 10 \*\*\*\*\* DOC 007 07: the form was filled out by the client herself and the care was actually provided, the agreement with \*\*\*\*\* was signed and payment was made to the account \*\*\*\*\* can remember more does not change this. So that the , that for whatever reason he does not defense requests acquittal under 10.

- Fact 2 and fact 3

The defense does not dispute that an incorrect or incomplete declaration was made in 2008 and 2009.

The defense also does not dispute that no report was filed at all in 2010 and 2011. The question here is whether this was done intentionally - conditionally or otherwise.

The accountant had been involved with SvvT since March 2008 to form the image. Precisely with a view to compensating for the client's ignorance on this point.

From the first receipt he did the administration (appendix 13). The client had just worked 1 or 2 weekends. The accountant advertises with if necessary bring your drawer with receipts, which is exactly what the client did (appendix 14).

Client declares the following about this:

At the hearing of 1 April: "You are rather loose with administration? No, I was not at all loose with administration", "We were constantly lagging behind the facts, it was like mopping with the tap open".

(84) At one point the mail also went directly to Assenberg.

(74) I didn't really know anything about administration. I threw the receipts of the expenses of those weekends in a drawer and through someone I found an accountant. His name is Rob Assenberg and he took that drawer. On the advice of the accountant I set up the foundation in October 2008.

(115) Bookkeeper instructed to file a return. Handed in the items to him

Reminders and reminders tax return ib 2010-11. Then I received letters from the tax authorities that no return had been received. I then contacted the accountant. I never heard anything back from my accountant and I therefore thought that everything was in order.

The relationship between Assenberg and the client was a special one. She trusted him blindly. The professional distance between the two was completely gone.

eye lost. He went to Hochsauerland twice and she lent him €16,000 at his request. Client states that he could indeed access all bank details and could also make payments himself using the Tancode list.

An indication of this is an email stating "I assume that you have changed the login code for the bank. Could you please pass this on to me, otherwise I will no longer be able to consult it". [47] Remarkably enough, all his invoices were always paid, even though the companies were doing badly financially.

What makes the client's story more plausible is the dates on which an extension was requested for the tax return. This was always 30 April.[48] The client was not in the Netherlands at that time. And then there is a remarkable email. On 28 April 2011, the client is reassured that she does not have to worry about the letter she received regarding the personal tax return for 2009. Assenberg emails about this: "I checked it, but the tax return was already sent in January. I receive many messages with incorrectly sent reminders". [49] This does indeed show that the client consulted with Assenberg about the tax return and did not completely bury her head in the sand. It is remarkable that the case file shows that Assenberg only started filing the tax return for 2009 on 24 June 2011.[50]

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The mere fact that a tax return is incorrect or incomplete or that no return was filed at all does not mean that the client had intent to do so from the outset (see also HR 4 September 2007, LJN BA5810). This means that concrete evidence of intent must be provided. It can be established that the client had hired the accountant Assenberg.[51] Since she herself did not understand administration (75/136), this may also be expected of her. "She has taken the measure customary in business transactions, in the words of the public prosecutor". The client fully trusted the correctness of the returns drawn up by Assenberg (944).

The client was also entitled to rely on this, given the expertise that may be expected from such an accountant in the field of tax, especially since her own knowledge of accounting and/or tax is completely absent.[52] The client's actions may have been inattentive, but this does not imply intent to commit the criminal act, not even in a conditional sense.

In this light, the Supreme Court's ruling of 13 February 2009 is important. [53] In that ruling, the Supreme Court considered that if a taxpayer is assisted by an advisor whom he could consider to be sufficiently expert and whose careful performance of his duties he did not need to doubt, there is no reason to impose the general requirement that the taxpayer himself, in order to prevent errors, also study the substantive aspects of tax regulations applicable to him. This is not changed by the mere fact that he makes use of the relevant regulation – whether or not on a large scale. For this reason alone, a taxpayer in such a case cannot be accused of gross negligence – *let alone intent* – in respect of non-payment of tax on the sole ground that he forwards documents sent to him that relate to the tax in question to his expert advisor without taking note of them himself.[54]

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The similarities with today's case are striking. The client also

assisted by an accountant whom she could consider sufficiently competent and whose careful performance of her duties she did not need to doubt. The fact that the client had hired a professional did not mean that she should have delved into the substantive aspects of the tax regulations applicable to her herself in order to prevent errors. The mere fact that she forwarded the letters from the tax authorities directly to her accountant without taking note of them herself does not lead to gross negligence on the part of the client, let alone intent.

With regard to the complete failure to file a report, the client declares:

(137) The admin that was in Assenberg's possession was brought to my home by him. It was in boxes and bags. It was a whole mountain. I then brought this administration to P\*\*\* \*\*\*\*\*. To his office. P\*\*\* \*\*\*\*\* would take over the admin from Assenberg. He would first look at the bookkeeping. He indicated almost immediately that the bookkeeping was a mess.

(377) Co-suspect \*\*\*\*\* states: The old accountant Assenberg had never properly updated the cash administration. This came to light during the tax authorities' audit of the books around May 2012.

With regard to the 2010/2011 tax returns, it is noted that the new accountant \*\*\*\*\* was also in fact unable to do so. [55] An additional appendix received yesterday in which \*\*\*\*\* once again emphasises the course of events. Also ties in with his interrogation at the FIOD. Since part of the bookkeeping was still in Assenberg's possession and he did not want to hand it over (215). See also Assenberg at the RC 20 December 2013 (5)." I have not handed over OA's administration.

The latter not because that administration also belonged to Mrs Moesbergen. Mrs Moesbergen forbade me to hand over that administration to Mrs Brinkerink". Even if the client wanted to, she could not file a tax return. This is therefore a force majeure situation. [56] An email from Mr vd Emden also shows that it involved much more administration than Assenberg suggests (appendix 15). The client is certainly trying to get everything on track now. See also the letter from the Tax Authorities dated 17 March that all objections will be processed even though the term has expired (appendix 16).

The defense therefore requests that you convict the defendant of the guilt variant for fact 2 and acquit him of fact 3.

- Fact 4 Failure to provide information 1 Jan 2008 to 12 April 2013

After all, she deliberately failed to report and/or declare to the UWV that she had received any other income from employment.

As already stated, the basis for the amounts €570,086 and, in my opinion, also for €535,556.00 is missing. It is also not sufficient to deduct the Docdata €143,829 amount from this amount, because it is not unreasonable that

the “mistakes” in the gambling file are much greater.[57] The next question is whether the remaining gambling amount – because the defense is also certain that gambling took place -, can be considered as income from employment. She had no other income than her WAO benefit and PGB funds (961). The defense believes that this position is too simplistic.

It has been argued before that the erroneous research results feed into other suspicions. This undermines the purity of those suspicions.

Based on the incorrectly determined amount of €535,556.00, it is determined that this will be sufficient reason to largely terminate or reclaim the benefit retroactively. The amount to be reclaimed has been determined at €71,530.61 on the basis of €535,556.00[58]

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The amount of money that was gambled away is income from employment. There was a regular income of over €700,000. In addition, an amount x as a result of the criminal act, namely the PGB fraud (€696,668 according to the position of the justice department). If this is then laundered as by gambling it away, this cannot also have the stamp of employment from income. Otherwise, the same money would be wearing two hats and the client would be punished twice for this.

The Public Prosecution Service cannot lie down at two anchors. You are either a “receiver” or a “stealer”. Article 6 ECHR stands in the way of a conviction on the basis of this article. The money in the client’s private account, the “income”, is of criminal origin in view of fact 5. If we follow this charge, the UWV would require the client to incriminate herself. This is in conflict with the *nemo tenetur* principle, described by the Supreme Court as the principle that a suspect may not be forced to actively cooperate in something that could lead to his conviction.[59]

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Primary: Since it has not been established that it cannot be anything other than “income from employment”, I request that you acquit the client of fact 4.

Subsidiary: Client does not have to incriminate herself. She cannot be required to report the criminal origin of the money she embezzled and then laundered i.e. OVAV. More subsidiary: As regards the VOF period, client did report the changes (1027 et seq.). For that period, the defense therefore requests you to acquit client.

- Fact 5 Money laundering 420bis paragraph 1 sub a and b: “the actual nature, origin, location, alienation and/or relocation, hidden/concealed/and/or hidden/concealed who the rightful owner is”. “convert/transfer/have in possession/acquire”. For an amount of € 696,668

According to the defense’s position, you cannot reach a conviction for both facts 4 and 5. If you can prove fact 4 legally and convincingly,

proven, so income from work, I request you to acquit the client of money laundering. In that case the money had a legal origin, namely from work.

How did the amount of €696,668 come about? Case file 3.1. PGB fraud .  
This would consist of the funds received from the budget holders on private account 7310140.

(2575) plus addition an amount of € 696,668 2008 to 2012

(2636) sum received over the years 2008 to 2011 €530,068.66.

(2437) sum received over the years 2008 to 2011 € 518,249.00.

How can the difference of over €10,000 between the bottom two be explained?

How do we know that the amount of €696,668 is correct? Here too, the underlying bank statements are missing, while it has now become apparent that there are errors in more calculations. In fraud, everything revolves around the numbers, even if only in light of the penalty.

The process of money laundering can be divided into 3 (or 4) distinct phases: placement (placement in the financial circuit), layering (concealing origin, real ownership/destination) integration (bringing the goods into (commercial) traffic with an apparently 'legal' origin). Money laundering is thus the process by which an apparently legal origin is given to an object that in reality comes directly or indirectly from crime.

Not all of the amount that the PGB budget holders deposited into the client's private account was done unlawfully. The reference to "care provided" on the transfers is consistent with this. The client has stated that care was indeed provided for the majority of the deposited funds.[60] The private contracts that confirm this have disappeared without a trace. Another reason that the funds were deposited privately was because the business account(s) were seized. Saskia Moesbergen, \*\*\*\*, PGGM and the Tax Authorities seized the client's business account at various times within the till period. Only the part that was collected unlawfully by the client - namely the remaining PGB, the part for which no care was provided, but which was accounted for by means of fake forms - may be qualified as money laundering.

Only in that respect has the integrity of financial and economic transactions been jeopardised by the client's actions.

It should be noted that since this concerns money that originates from a crime committed by a client herself and she is also accused of 'possessing' it, the question arises whether such mere possession is sufficient to be regarded as money laundering, i.e. the possession

have what is automatically the consequence of committing the basic offence (qualification exclusion ground). Based on current case law, the client is in principle actually required to perform an act aimed at securing her criminal proceeds (Supreme Court 26 October 2010, BM4440).

Since this judgment, mere possession can no longer be qualified as money laundering. In that case, there must be an act that involves more than mere possession and that has a targeted character of actually concealing or disguising the criminal origin of that object obtained through one's own crime. [61]

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With regard to transferring, converting or using the following.

The case of the judgment of 26 October 2010, the mortgage fraud and the subsequent acquisition and occupation of the home, is illustrative. This is so closely related that it essentially involves no more than having the object in its possession and therefore not transferring, converting or using it. [62] Transferring, converting or using it can be so close to having it in its possession that the ~~criminality~~ of such conduct is not clear under all circumstances. "The bicycle thief has the bicycle in his possession" can rely on the qualification exclusion ground, but if he subsequently uses the bicycle by riding on it, he should not, in the defence's view, be in a substantially worse position.

As a representative of SvvT and OA, the client draws up false accountability forms, through which she receives "leftover" PGB money in her private account. This money flows back into SvvT and OA. Is there then still a question of transfer, conversion or use, after all, no action has been taken to secure the criminal proceeds or to hide them from justice. The client also did not use that part of the money for her own benefit.

The (unknown) portion that the client gambled away can be seen as money laundering.

In the light of the money laundering offence, the client's defence – having acted in good faith when falsifying the accountability forms and falsely drawing up the invoices – plays a prominent role. The client had indicated to BJZ and the care office that she consistently came up short on money for many children. (116) "You ask me whether I have ever drawn up false invoices, yes I have. I did this on the advice of the care office. You ask me who this person is at the care office. There are three people and I will not answer the question of what these people are called. You ask me whether I have ever drawn up false invoices on my own initiative or in consultation with budget holders. Never on my own initiative, but in consultation with budget holders and BJZ. I also do not want to give names about who these people are at BJZ. I deal with guardians. They think that you can shift budget from one child to another child".

See also other statements:

(163) I would like to make another comment. I have an email from BJZ from this year in which BJZ says that if I have too little money with a budget holder, I can transfer it to a budget holder where I had PGB. No investigation has been done into this email, although the client's laptop has been seized. Witnesses from the care offices or BJZ have not been questioned by the Public Prosecution Service.

Other points of contact:

(1443) \*\*\*\*\*: Mrs. Brinkerink once tried to contact someone from the health insurance office by telephone and spoke to \*\*\*\*\*. This was her regular contact at the health insurance office. This conversation was put on speakerphone and then this man told us that it was a good idea to go along with what Mrs. Brinkerink proposed to account for the entire budget to the health insurance office. I dare not say whether this was a preconceived plan. It could be that someone pretended to be \*\*\*\*\* from the health insurance office. It could also be that someone at the health insurance office is involved in the plot.

(1557) \*\*\*\*\*: This was also the advice of the health insurance company according to Yvonne. Yvonne also called someone from the health insurance company once, while my husband and I were with her. This person also advised us to fully justify the budget and to go along with Mrs. Brinkerink's plan. If someone from the health insurance company says this, then it must be good. It is possible that this was a preconceived plan by Yvonne Brinkerink.

\*\*\*\*\* to the police (3): Then she called the health insurance office and then Mrs. Brinkerink explained that I wanted to stop the PGB. Then I got the gentleman from the health insurance office on the line and then I explained to the gentleman myself why I wanted to stop the PGB. Then the gentleman from the health insurance office advised me to spend the money that was left from the PGB anyway because if things got worse with my son again, I could still buy care with that money.

(4) The gentleman from the care office advised me to reserve the money that was left over from the PGB. Mrs. Brinkerink would write out invoices for the PGB that was left over, which we would then pay and of which we would then get half back. With the half that we would get back, we could then purchase care for our sons. That is how I discussed it with the gentleman from the care office.

The defense does not rely on AVAS here, nor will your Court request that the client be discharged from prosecution, but this is the framework within which the facts must be viewed.

It is a fact that the care office accounted for €215,000 more than was invoiced to budget holders. Based on the statement of interim director \*\*\*\*\*, it appears that the business invoices were correct. If we assume this and this

amount divided by two this almost reaches the amount of the total repayments per bank to the budget holders € 103,691 if we add to this that a number of times cash repayments were also made then this amount of fraud and money laundering does not seem unreasonable.[63] After all, it was about sharing the PGB that was “left over”. It is very unlikely that the part that was left over was often larger than the part that was actually spent on care. There are a total of 148 budget holders, who are good for a total amount of PGB € 3,430,772[64] 1/3 of that, 48 budget holders would have transferred money to the private account. Roughly speaking, those 48 budget holders then guarantee 1/3 of the total budget, which is more than 1 million. It is not logical and not plausible that the largest part, namely almost 700,000, is then defrauded. After all, those children certainly needed care. The amount of €215,000 in fraud (1/4 of the PGB surplus) is more likely and, given the above, also more plausible than the €696,668 (2/3 of the PGB surplus).

- Punishment & personal circumstances.

On 1 April, the client indicated that the public prosecutor was completely right. Mistakes were made. She moved around PGBs like crazy and she now knows, in retrospect, that this was not the intention. In doing so, she improperly disposed of community funds and fraud was committed. The dark cloud has a silver lining for the client. She hopes that this case will get the debate going again. 1 line in care, with equal rates.

There must be a punishment, but the Public Prosecution Service's demand, although in accordance with the guideline, can be called high[65]

(Cf.) District Court of The Hague , 1 April [66] A married couple was sentenced to a GS of 1.5 years onvv. This is in accordance with the claim. At least € 600,000.00 had been defrauded with PGBs in a period of 3 years. The money, an amount of € 708,679.35, was laundered by purchasing real estate in Curaçao and paying salaries.

For the client there is also a life after this trial and after the sentence. This preferably with the correct facts on her record, and more importantly linked to that the correct fraud and money laundering amounts.

The claim that is now before us does little justice to the personal circumstances of the client. Certainly not now that the amounts of the alleged fraud and money laundering have not yet been established *beyond reasonable doubt* . In addition, the following mitigating circumstances are invoked.

1. Continued action.

The defense argues that if you convict the client for both fact 1 and fact 5, there has always been a continued act, since the connection

between both prohibited acts is so close that they must each time be considered as expressions of an unlawful decision of intent. Especially since there was hardly any time lapse between obtaining the money and then withdrawing and spending it for business and private purposes, or reversing it to the budget holders. This means that the complex of facts must be seen as a whole and qualified as a continuing act.

- Reduction of penalty for procedural errors pursuant to 3559a SV.

If and to the extent that the arguments under point 1 do not lead to the Public Prosecution Service being declared inadmissible, it should result in a reduction of the sentence. Forms have been neglected and this should have legal consequences, as the client has suffered irreparable harm as a result. [67]

- Personal circumstances.

Client is a first offender and has lost everything because of this case.

SvvT bankrupt.

OA bankruptcy filed (appendix 17).

House foreclosure sale. 9 free uses have been made of it.

\*\*\*\*\* OTS and almost out of home placement.

Pilloried by the national media.

Sky-high (tax) debts (Appendix 18).

Confiscation case

- Seizure

Claim for authorization of conservatory attachment dated 12 April 2013 (2249-2250) not according to the rules of the art, attachment is unlawful because no boxes have been checked. Request that you return everything to the client.

# CHAPTER 17 – AFTERWORD

OPGEJAAGD



DOOR DE OVERHEID  
-NAWOORD-



## Afterword

It's not over yet. Still not. Despite the fact that in the last major PGB fraud case it was established by means of a WOB request that the Public Prosecution Service had concealed things and the Healthcare Authorities tolerated it, the officer did not give up and has appealed this case. This concerns the same officer as in my case with the same investigation team and partly the same charges. These people were acquitted but are still being dragged through the mud in some media. The consequences for them too, despite acquittal, are incalculable.

Several healthcare providers who allegedly committed PGB fraud have won against the Municipality, but in these cases too the state is a bad loser and the Municipalities are appealing.

The worst thing I could ever do was to withdraw my appeal. I blindly trusted that I would then be able to start a review, but that turned out to be not so easy and will take some time. Getting on my knees and abandoning the review is not an option for me.

The bullying continues from the government. Whether it is my son who spontaneously received an OTS from the high-risk team of the Child Protection Council in connection with the risk of kidnapping or it is my income that they are confiscating again.

take. They keep going. I spend whole days fighting, emailing and calling agencies. If I hadn't had help I would have been dead and buried ten times over. Sometimes I wonder if that wouldn't be a better solution but then I see my children's faces in the photo and then I know I can't do that.

My worst nightmare, being separated from my children, came true.

We now live spread out across the world and despite the fact that it is only a few hours flight, we often do not have the finances for it and have to make do with WhatsApp conversations. My daughter got her driver's license, I was not there. My son had an accident last year and had to have surgery, I was not there. My father passed away and I was not at his funeral. Both the children and I try to look at what we do have. We managed to be at both their birthdays when they turned eighteen. We still manage to laugh the times we are together when we reminisce about the past. We count our blessings because, it could always be worse. We still have each other even though we are separated.

There have been times when I thought that if I were dead, the children would be very sad but would be able to continue with their lives. Because of those thoughts and acting on them, I ended up in the iso several times when I was in detention or worse, in intensive care. Of course, for a number of people in my case, this was a reason to portray me as mentally unwell. It suited them. I am happy for them that they can still experience so much pleasure and joy from the misery they have caused.

Since the main characters in this book, as well as the media, have never taken my or even my children's privacy into account and everyone has been shouting about being transparent since the end of my detention, I wanted that too and all names are stated correctly.

As soon as the revision starts, it can be followed on this website.

I dedicate this book to my strong heroes. My children Tom and Shirley.



• Yvonne Brinkerink •

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526 grams

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1

• Publication date:

December 2018

• Category:

True story

# BRINKERINK

## ZWIJGEN IS IMMOREEL ALS DAARDOOR ONRECHT BLIJFT BESTAAN

Vronnie Brinkerk, geboren in Amsterdam op 27-03-1967  
Moeder van een dochter (15-08-1996) en een zoon (20-10-2000)  
Auteur van: *Nicolaïk voor dichtuif en de omgeving* (2010)  
Oprichtster van: Stichting vrienden van Tom en Onsichtbaar Anders

Oprichtster en lijsttrekker: Partij voor de Kinderbelangen

Gemartfeld op: 12-04-2015 op verdenking van o.a. PGB-fraude  
Veroordeeld op 18-04-2014 tpt 20 maanden hechtenis  
waarvan 6 maanden voorwaardelijk  
Mervroegd vrij gekomen op: 11-11-2014  
Geheel vrij op: 06-01-2015

Veroordeeld voor: PGB-fraude, Befragingsfraude-fraude, UWV-fraude, valsheid in geschriftte en witwassen.

Besproken tijdens de evaluatie van de Wet op de Jeugdzorg onder kabinet Rutte/IJsselmuiden

Gescreven voor: De Helpende Hollander

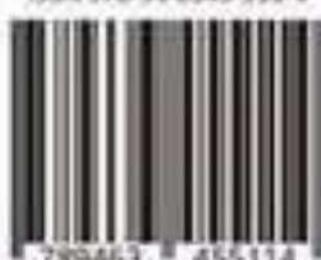
Mengtaak van: Blootgevoel

We boden crisiscopvang en time-out, aan ca. 150 kinderen per maand met gedragsproblemen of een voorval van autisme.

De zorg werd verleend met een team van 52 medewerkers.

Vakantie en toegangsopvang werd geboden: evenals begeleiding en al wat nodig was om de kinderen en gezinnen goed te laten functioneren.

ISBN 978-94-6545-511-8



9 789463 8 455114

Nakad whistleblower youth care

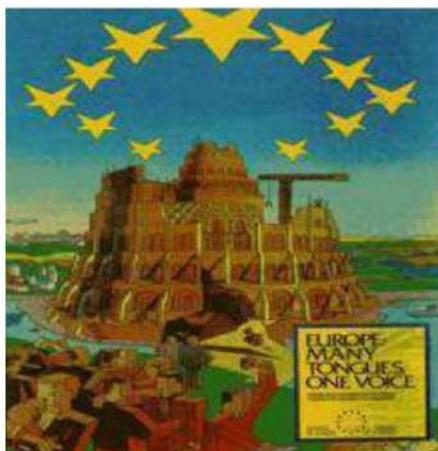
<https://archive.org/details/nakad-united-nation-the-netherlands>

<https://archive.org/details/nakad-rechtsstaat>

## European Union

According to various Bible experts, the Roman Empire as described by Daniel relates to the European Union. The dream of a reunited Europe has been going on for centuries. It was the same vision that inspired Napoleon and Hitler in the past - and inspires the European Union today. All the peoples that are now part of the European melting pot have their roots in the old Roman culture. Europe breathes the atmosphere of the Roman Empire and also the old Babylon. Incidentally, they are not secretive about that in Brussels either.

For example, the Tower of Babel can be seen on a poster issued by the European Union to promote European unity among the people. European unity turns out to be nothing more than a satanic monstrosity. The arrogance of "Lucifer" to place himself above God can be seen today in the European Union. Satan's symbols, stars with two points upwards, known as the horns of Lucifer, float around the European "Tower of Babel" with the text: many tongues (languages), one voice. This poster is derived from Pieter Bruegel's painting the Tower of Babel. When the Tower of Babel was built, God said: "This is the beginning of their endeavor; now nothing that they imagine to do will be impossible for them: (Gen. 11:6). On the way to one world government, technology and science will rule.



The European Parliament has owned a building since 1999, whose designers were also inspired by Bruegel's painting. It is perfectly clear that Europe is attempting to restore what the [Biblical God destroyed](#), namely [the ancient Babel of Nimrod](#). The exterior of the building in Strasbourg symbolizes the Tower of Babel and the interior the Coliseum. Babylon and Rome can thus be seen as a unit in the European Union., (Franklin ter Horst).

## Judges ECHR Strasbourg

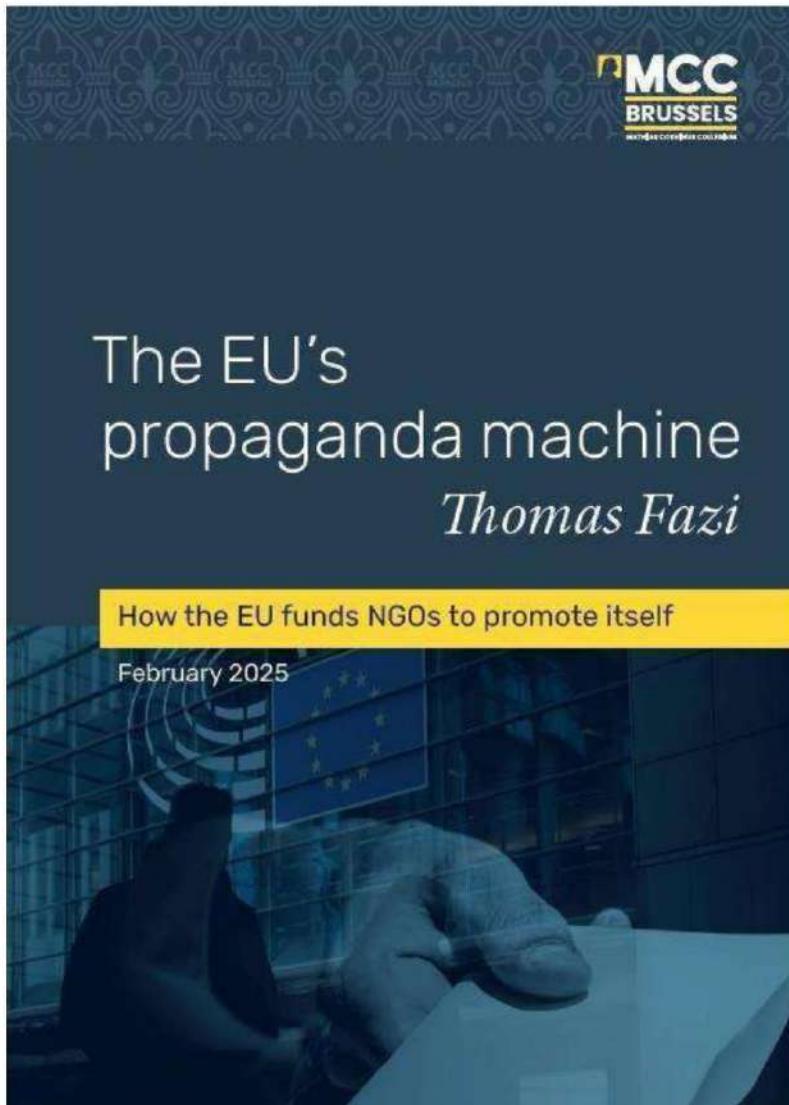


Interior of the European Court of Human Rights (ECtHR) in Strasbourg. Photo: AFP

In 2020, 22 judges of the European Court of Human Rights (ECtHR) in Strasbourg had ties to (left-wing) NGOs such as Open Society, the Helsinki Committee and Amnesty International, (EW Magazine, Jette Wiersma).

Read more ECLJ.ORG

<https://archive.org/details/soros-seizes-european-court-echr>



<https://archive.org/details/the-eus-propaganda-machine>

The European Union stands to promote their political agenda under the guise of promoting 'EU values'. The various human rights, anti-racism organisations set up by the EU itself are financially dependent on EU funding, thus acting as channels for the promotion of the European Commission's agenda. Completely dependent on their funding. They are effectively transformed into vehicles for institutional propaganda.

Under the pretext of combating disinformation, the EU has increasingly supported initiatives that promote the censorship of dissent, limit the diversity of public debate and consolidate the rule of law. Thus deployed to silence dissent and strengthen the EU's authority, raising serious concerns about the problematic democratic situation. Even schools are brainwashed early on with

pro-EU propaganda. (The EU's propaganda machine, Thomas Fazi, 2025. How the EU funds NGOs to promote itself).



THE EU DOUBLE STANDARDS  
ON  
HUMAN RIGHTS

ISRAEL VS RUSSIA



The utmost care has been taken in compiling this summary from various sources of various reports from media, politics and case law by IFUD of Human Rights according to the principle of thematic approach. Thematic approach is a method that emphasizes the selection of one specific theme in which the various subtopics are strategically linked and integrated within one research theme by the researcher. Intended for science, politics and schools for non-commercial use.



IFUD of Human Rights condemns the Hamas terrorist attack. Hamas carried out a terrorist attack in Israel on October 7, 2023, killing approximately 1,200 people. Israel has a right to self-defense under international law even where Palestine is not a State. Israel's right of self-defense is limited by principles of necessity and proportionality.



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# **States and companies must end arms transfers to Israel immediately or risk responsibility for human rights violations: UN experts**

20 June 2024

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GENEVA (20 June 2024) – The transfer of weapons and ammunition to Israel may constitute serious violations of human rights and international humanitarian laws and risk State complicity in international crimes, possibly including genocide, UN experts said today, reiterating their demand to stop transfers immediately.

In line with recent calls from the Human Rights Council and the independent UN experts to States to cease the sale, transfer and diversion

of arms, munitions and other military equipment to Israel, arms manufacturers supplying Israel – including BAE Systems, Boeing, Caterpillar, General Dynamics, Lockheed Martin, Northrop Grumman, Oshkosh, Rheinmetall AG, Rolls-Royce Power Systems, RTX, and ThyssenKrupp – should also end transfers, even if they are executed under existing export licenses.

“These companies, by sending weapons, parts, components, and ammunition to Israeli forces, risk being complicit in serious violations of international human rights and international humanitarian laws,” the experts said. This risk is caused by the recent decision from the International Court of Justice ordering Israel to immediately halt its military offensive in Rafah, having recognized genocide as a plausible risk, as well as the request filed by the Prosecutor of the International Criminal Court seeking arrest warrants for Israeli leaders on allegations of war crimes and crimes against humanity. “In this context, continuing arms transfers to Israel may be seen as knowingly providing assistance for operations that contravene international human rights and international humanitarian laws and may result in profit from such assistance.”

An end to transfers must include indirect transfers through intermediary countries that could ultimately be used by Israeli forces, particularly in the ongoing attacks on Gaza. The UN experts said that arms companies must systematically and periodically conduct enhanced human rights due diligence to ensure that their products are not used in ways that violate international human rights and international humanitarian laws.

Financial institutions investing in these arms companies are also called to account. Investors such as Alfried Krupp von Bohlen und Halbach-Stiftung, Amundi Asset Management, Bank of America, BlackRock, Capital Group, Causeway Capital Management, Citigroup, Fidelity Management & Research, INVESCO Ltd, JP Morgan Chase, Harris Associates, Morgan Stanley, Norges Bank Investment Management, Newport Group, Raven'swing Asset Management, State Farm Mutual Automobile Insurance, State Street Corporation, Union Investment Privatfonds, The Vanguard Group, Wellington and Wells Fargo & Company, are urged to take action. Failure to prevent or mitigate their business relationships with these arms manufacturers transferring arms to Israel could move from

being directly linked to human rights abuses to contribute to them, with repercussions for complicity in potential atrocity crimes, the experts said.

"Arms initiate, sustain, exacerbate, and prolong armed conflicts, as well as other forms of oppression, hence the availability of arms is an essential precondition for the commission of war crimes and violations of human rights, including by private armament companies," said the experts.

They said the ongoing Israeli military assault is characterized by indiscriminate and disproportionate attacks on the civilian population and infrastructure, including through extensive use of explosive and incremental weapons in densely populated areas, as well as in the destruction and damage of essential and life-sustaining essential civilian infrastructure, including housing and shelters, health, education, water and sanitation facilities. These attacks have resulted in more than 37,000 deaths in Gaza and 84,000 injured. Of these deaths and injuries, an estimated 70 per cent are women and children. Today, children in Gaza are the largest group of amputee children in the world due to grave injuries sustained in the war. These operations have also resulted in severe environmental and climate damages.

"The imperative for an arms embargo on Israel and for investors to take decisive action is more urgent than ever, particularly in light of states' obligations and companies' responsibilities under the Geneva Conventions, the Genocide Convention, the international human rights treaties, and the UN Guiding Principles on Business and Human Rights," the UN experts said.

The experts paid tribute to the sustained work of journalists who have been documenting and reporting on the devastating impact of these weapons systems on civilians in Gaza, and human rights defenders and lawyers, among other stakeholders, who are dedicated to holding States and companies accountable for the transfer of weapons to Israel.

They have also engaged with States, as well as the involved businesses and investors on these issues.

The experts: Robert McCorquodale (Chair), Fernanda Hopenhaym (Vice-Chair), Pichamon Yeophantong, Damilola Olawuyi, Elzbieta Karska, [Working Group on business and human rights](#); George Katrougalos, [Independent](#)

Expert on the promotion of a democratic and equitable international order; Pedro Arrojo-Agudo, [Special Rapporteur on the human rights to safe drinking water and sanitation](#); Reem Alsalem, [Special Rapporteur on violence against women and girls, its causes and consequences](#); Paula Gaviria Betancur, [Special Rapporteur on the human rights of internally displaced persons](#); Tlaleng Mofokeng, [Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health](#); Michael Fakhri, [Special Rapporteur on the right to food](#); Morris Tidball-Binz, [Special Rapporteur on extrajudicial, summary or](#)

arbitrary executions; Mary Lawlor, [Special Rapporteur on the situation of human rights defenders](#); Cecilia M Bailliet, [Independent Expert on human rights and international solidarity](#); Ms. Margaret Satterthwaite, [Special Rapporteur on the independence of judges and lawyers](#); Farida Shaheed, [Special Rapporteur on the right to](#)

[education](#); Carlos Salazar Couto (Chair-Rapporteur), Michelle Small, Ravindran Daniel, Jovana Jezdimirovic Ranito, Sorcha MacLeod, [Working Group on the use of mercenaries](#); Francesca Albanese, [Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967](#); Ben Saul, [Special Rapporteur on the promotion and protection of human rights while countering](#)

[terrorism](#); Dorothy Estrada Tanck (Chair), Laura ÿ and Nyirinkindi (Vice-Chair), Claudia Flores, Ivana Krsti Haina Lu, [Working group on discrimination against women and girls](#); Astrid Puentes, [Special Rapporteur on the human right to a clean, healthy and sustainable environment](#); Attiya Waris, [Independent Expert on the effects of foreign debt](#); Marcos A. Orellana, [Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of](#)

hazardous substances and wastes, தாநாஸிகள் மற்றும் பாயுப்பாி,

Special Rapporteur on the right to adequate housing

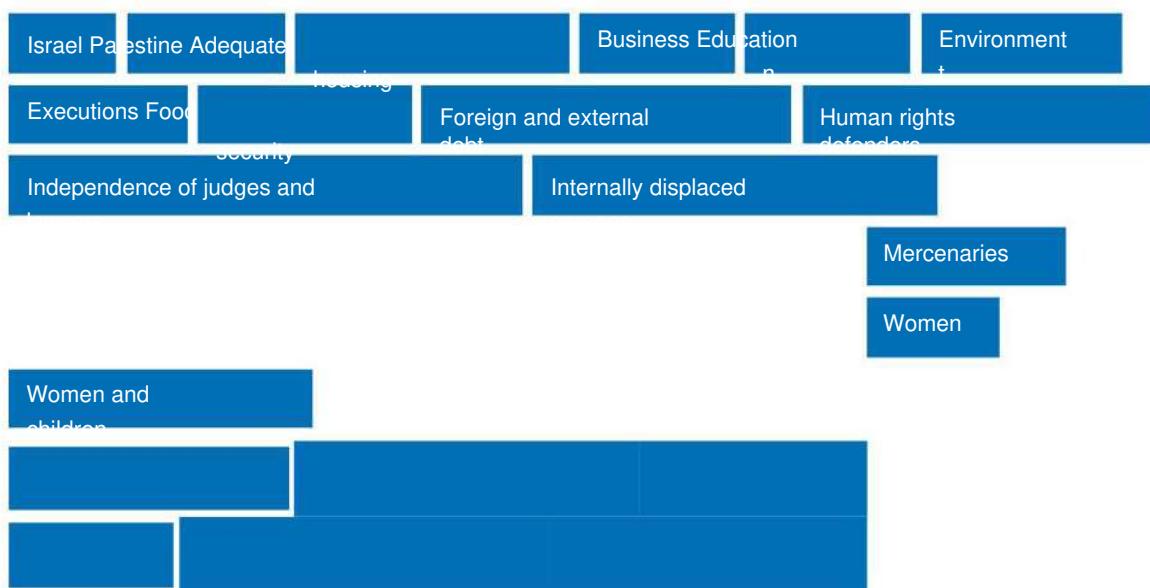
The Special Rapporteurs, Independent Experts and Working Groups are part of what is known as the [Special Procedures](#) of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms that address either specific country situations or thematic issues in all parts of the world. Special Procedures' experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent from any government or organization and serve in their individual capacity.

For inquiries and media requests, please contact Alexia Ghyoot ([alexia.ghyoot@un.org](mailto:alexia.ghyoot@un.org)).

For media inquiries related to other UN independent experts please contact Dharisha Indraguptha ([dharisha.indraguptha@un.org](mailto:dharisha.indraguptha@un.org)) or John Newland ([john.newland@un.org](mailto:john.newland@un.org))

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Human rights are universal, and when the EU and its member states selectively apply human rights and international treaties, there is a huge problem. From that moment on, human rights are only a political instrument and their content is empty phrases.



## HUMAN RIGHTS

The European Union is committed to supporting democracy and human rights in its external relations, in accordance with its founding principles of liberty, democracy and respect for human rights, fundamental freedoms and the rule of law. The EU seeks to mainstream human rights concerns into all its policies and programs, and has different human rights policy instruments for specific actions — including financing specific projects through its financing instruments.

### LEGAL BASIS

- Article 2 of the Treaty on European Union (TEU): EU values. The EU's founding values are 'human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities';
- Article 3 TEU: EU objectives. In 'its relations with the wider world', the EU contributes to the 'eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter';
- Article 6 TEU: the Charter of Fundamental Rights and the European Convention on Human Rights. Although the Charter of Fundamental Rights of the European Union (Article 6(1)) only explicitly refers to the implementation of Union law, the EU's institutions and bodies and its Member States must also respect the Charter in the EU's external relations. Countries joining the EU must also comply with the Charter. Article 6(2) requires the EU to accede to the European Convention on Human Rights (4.1.2);
- Article 21 TEU: principles inspiring the Union's external action. These principles are democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, equality and solidarity, and respect for the principles of the United Nations Charter of 1945 and international law. In Article 21, the EU endorses the principle of the 'indivisibility of human rights and fundamental freedoms', committing itself to consider economic and social rights to be as important as civil and political rights;
- Article 205 of the Treaty on the Functioning of the European Union (TFEU): general provisions on the Union's external action. This article determines that the EU's international actions are to be guided by the principles laid down in Article 21 TEU.

### EU HUMAN RIGHTS POLICY

In 2012, the Council adopted a [Strategic Framework on Human Rights and Democracy](#), accompanied by an action plan to implement the framework. The framework defines the principles, objectives and priorities for improving the effectiveness and consistency of EU policy over the next 10 years. These principles

include mainstreaming human rights into all EU policies (as a 'silver thread'), including when internal and external policies overlap, and adopting a more tailored approach. Following a proposal from the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR), in November 2020 the Council adopted the third [EU Action Plan on Human Rights and Democracy](#). It sets out the EU's ambitions and priorities for the 2020-2024 period, and has been extended to 2027 to align with the time frame of the multiannual financial framework. It is structured around five main areas of action:

- Protecting and empowering individuals;
- Building resilient, inclusive and democratic societies;
- Promoting a global system for human rights and democracy;
- New technologies: harnessing opportunities and addressing challenges;
- Delivering by working together.

The Council has adopted a series of thematic [guidelines on human rights](#). They provide practical instructions for EU representations around the world on:

- Action against the death penalty;
- Dialogues on human rights;
- The rights of the child;
- Action against torture and other cruel treatment;
- Protecting children in armed conflicts;
- Protecting human rights defenders;
- Complying with international humanitarian law;
- Combating violence against women and girls;
- Promoting freedom of religion and belief;
- Protecting the rights of LGBTI people;
- Promoting freedom of expression both online and offline;
- Non-discrimination in external action;
- Safe drinking water and sanitation.

The EU's human rights and democracy country strategies follow a bottom-up approach aimed at integrating EU human rights guidelines and priorities into a single, coherent policy document. They are adapted to each country and establish goals for a period of three years.

The EU regularly includes human rights in political dialogues with non-EU countries or regional organizations. It also holds dialogues and consultations specifically dedicated to human rights with some 60 countries.

Bilateral trade agreements and the various association and cooperation agreements between the EU and non-EU countries or regional organizations include a human rights clause defining respect for human rights as an 'essential element'. This clause

serves as an access point for engagement and dialogue, but also as a basis for imposing appropriate measures, such as reducing or suspending cooperation, in the event of grave violations of human rights and democratic principles. Incentives for ratifying and implementing human rights and labor rights conventions are provided for in the preferential EU trade schemes for developing countries (5.2.3).

---

A strong conditionality mechanism has been established for enlargement countries (5.5.1). Before joining the EU, these countries have to develop stable institutions guaranteeing democracy, the rule of law, human rights and respect for and the protection of minorities, a process actively supported by the EU. The European Neighborhood Policy (5.5.5) is also based on common values of democracy, the rule of law and respect for human rights. The EU supports partner countries in implementing reforms and applies a 'more-for-more' approach (more integration and money to reward progress).

EU election observation missions also aim to improve human rights by discouraging intimidation and violence during elections and strengthening democratic institutions.

The EU promotes human rights through its participation in multilateral forums such as the UN General Assembly's Third Committee, the UN Human Rights Council, the Organization for Security and Co-operation in Europe and the Council of Europe. The EU also actively promotes international justice, for example through the International Criminal Court.

With a budget of EUR 1.511 billion allocated for the 2021-2027 period, the thematic program on human rights and democracy under the [Neighbourhood, Development and International Cooperation Instrument – Global Europe](#) mainly supports and protects civil society actors that promote human rights and democracy. An important feature of this instrument is that the consent of the government of the partner country is not necessary. In addition, the EU has committed to progressively integrating a rights-based approach into all of its development programmes, based on a toolbox developed by the Commission in 2014, and [updated in 2021](#).

---

In December 2020, the Council adopted a [regulation establishing a global human rights sanction regime](#). It allows the EU to target individuals, entities and bodies – including state and non-state actors – responsible for, involved in or associated with serious human rights violations and abuses worldwide. On 22 March 2024, in the light of the ongoing Russian war of aggression against Ukraine and the death of Alexei Navalny, the Council imposed [restrictive measures against an additional 33 individuals and 2 entities](#). As of April 2024, the Council has imposed [restrictive measures \(asset freezes and, where relevant, travel bans\) on a total of 116 individuals and 33 entities](#).

---

In the light of increasing evidence and awareness of human rights violations occurring in global value chains, since February 2022 the EU co-legislators have been working on a [directive on corporate sustainability due diligence](#). This directive will legally require companies to identify and, where necessary, prevent, end or mitigate adverse impacts of their activities on human rights and the environment. The directive was adopted by Parliament and the Council and entered into force in July 2024.

A complementary [regulation prohibiting products made with forced labor on the EU market](#) entered into force in December 2024.

An [annual report on human rights and democracy in the world](#), prepared by the VP/ HR and adopted by the Council, provides an overview of the human rights situation in the world, as well as of the EU's actions during the year.

## ACTORS

The European Council defines the EU's strategic interests and the general guidelines of the common foreign and security policy (CFSP) [\(5.1.1\)](#).

The Foreign Affairs Council generally deals with human rights issues related to the CFSP or the EU's trade or development policies. The Council's Human Rights Working Party, which carries out preparatory work for high-level discussions and decisions on human rights issues, is composed of human rights experts from the Member States and representatives from the European External Action Service (EEAS) and the Commission.

Every EU delegation has a human rights 'focal point'. The EU delegations have a key role in developing and implementing the human rights and democracy strategies for each country, preparing human rights dialogues, engaging with human rights defenders and civil society, and identifying priorities for EU financial assistance.

The Commission negotiates international agreements, oversees the enlargement process and neighborhood policy, and manages development programs and financing instruments (in close cooperation with the EEAS).

The role of the EU Special Representative for Human Rights is to enhance the effectiveness and visibility of EU human rights policy. The special representative has a broad, flexible mandate and works closely with the EEAS.

Parliament contributes to the development of the EU's policies and monitors the work of the other EU institutions.

Under Articles 207 and 218 TFEU, most international agreements need Parliament's consent to enter into force. For example, in 2011, Parliament blocked the textile protocol to the Partnership and Cooperation Agreement between the EU and Uzbekistan, mainly on the grounds of child labor issues. It only gave its consent in 2016 following significant improvements in the use of child and forced labor.

Article 36 TEU obliges the VP/HR to consult Parliament on the main aspects and basic choices of the CFSP, and to inform it on the evolution of those policies. Parliament may ask questions or make recommendations to the Council or the VP/HR.

Parliament's resolutions aim to raise awareness of human rights abuses, support human rights defenders and shape the EU's human rights policy through concrete policy proposals. Resolutions may be a part of the legislative process, an outcome of parliamentary committees' own-initiative reports, or the result of the [urgency debates](#) that usually take place on the Wednesday of each Strasbourg plenary session to highlight flagrant violations of human rights across the world. Parliament's annual resolution on [human rights and democracy in the world and the European Union's policy on the](#) matter analyzes the achievements of the EU's policy and the challenges facing it.

Parliament's [Subcommittee on Human Rights \(DROI\)](#), attached to the Committee on Foreign Affairs (AFET), is responsible for issues concerning democracy, the rule of law, human rights – including the rights of minorities – in non-EU countries and the principles of international law, and for ensuring coherence between all the EU's external policies and its human rights policy. The subcommittee also handles the day-to-day management of human rights files, while its delegations regularly visit relevant countries and institutions. The subcommittee monitors the follow-up to Parliament's urgency resolutions and holds frequent exchanges with the EEAS about the EU's human rights dialogues.

Human rights issues in the EU's external relations are also dealt with by the following committees: the Committee on Foreign Affairs (AFET), the Committee on International Trade (INTA), the Committee on Development (DEVE) and the Committee on Women's Rights and Gender Equality (FEMM). Human rights are equally an essential element of the work of Parliament's standing delegations, which interact with non-EU parliaments bilaterally and in the context of parliamentary assemblies.

Thanks to its budgetary powers (under Article 14 TEU and Article 310(1) TFEU), Parliament has a say in the allocation of funds to Global Europe and other financing instruments used for the promotion of human rights. Furthermore, Parliament is co-legislator for the external financing instruments.

Every year, Parliament awards the [Sakharov Prize for Freedom of Thought](#) to human rights activists around the world. On October 17, 2024 María Corina Machado and President-elect Edmundo González Urrutia won the Sakharov Prize, in recognition of their leadership of the Venezuelan opposition. Due to threats to her life, Ms Machado addressed MEPs remotely during the ceremony in Strasbourg on 17 December 2024, while her daughter and Mr González received the prize in person. The 2023 Sakharov Prize was awarded to Jina Mahsa Amini and the Woman, Life, Freedom Movement in Iran. The 2022 laureates were the good people of Ukraine, represented by their president, elected leaders and civil society. In 2021, the Sakharov Prize was awarded to Alexei Navalny, Russia's most prominent opposition figure, known for his fight against corruption and human rights abuses. Previous laureates include Nelson Mandela, Malala Yousafzai, Raif Badawi and the democratic opposition in Belarus. Parliament has created the Sakharov Prize Network to support Sakharov laureates, develop contacts between them and encourage joint activities.

Parliament promotes human rights as part of its broader activities to support democracy, which include election observation, pre- and post-election actions, parliamentary capacity building, mediation and dialogue on promoting democracy (5.4.2).

---

The President of Parliament actively supports human rights through statements and letters and by discussing human rights issues when meeting important actors.

Maciej JASTRZEBIEC-PYSZYNSKI 04/2025



Alvaro Oleart

Juan Roch

February 6th, 2025

## The EU's double standards on Palestine and Ukraine

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Alvaro Oleart and Juan Roch argue

“othering” of Palestine

demonstrates clear double standards when compared

to Europe's

treatment of Ukraine.

Ursula von der Leyen promised a “geopolitical” European Commission in 2019. She did not disappoint. Beyond the impact of COVID-19, von der Leyen's time in office has been marked by two acute crises: the Russian invasion of Ukraine in February 2022 and Israel's large-scale military offensive on Palestine following the deadly attacks perpetrated by

Although these are not entirely symmetrical conflicts and have their own political and historical particularities, there are strong similarities between them. They both feature a militarily powerful country (Russia and Israel) attacking a neighboring nation (Ukraine and Palestine) with which it has historically unequal relations (which may even be conceived of as colonial).

However, despite these similarities, the EU's foreign policy response has been very different, as we detail in a [new study](#). To fully understand the EU's positioning and role in this conflict, and in the face of the massacre perpetrated by Israel, it is essential to look beyond the latest ceasefire agreement and analysis its precarious situation in the new global re-equilibrium.

## The garden and the jungle

The asymmetric response to both conflicts highlights the contradictions of an EU whose foreign policy remains marked by the logic of "[the garden and the jungle](#)", a racist metaphor used by Josep Borrell, High Representative for Foreign Affairs of the European Union between 2019 and 2024.

Ukraine is part of the "garden": a predominantly white and Christian community with a status close to NATO and the EU. It is part of the "European family", in von der Leyen's own words. Supported by this idea, the EU provided political support, financial assistance and even helped develop Ukraine's defense capabilities. Ukrainian President Volodymyr Zelenskyy was invited to the European Parliament several times and EU leaders (including von der Leyen and Borrell) as well as many political leaders from EU member states visited Ukraine several times as a gesture of support for the country's fight against the Russian

government.

Moreover, the EU not only supported the welcoming of millions of Ukrainian refugees but also imposed harsh sanctions against the Russian government as well as Russian companies and individuals connected to President Vladimir Putin. The latter has been singled out as responsible for “war crimes” due to attacks on hospitals and other civilian infrastructure. Indeed, in March 2023, the International Criminal Court (ICC) [issued an arrest warrant against Putin for war crimes](#).

The ICC also issued a request for [an arrest warrant for war crimes and crimes against humanity against Israeli Prime Minister Benjamin Netanyahu](#) on November 21, 2024. However, in this case, the EU sided with Israel. Only Israeli leaders have been invited to speak in the European Parliament, and von der Leyen, together with President of the European Parliament Roberta Metsola, just visited Israel and held a joint press conference with Israeli President Isaac Herzog on October 13 2023.

Despite the large number of Palestinians killed by Israeli attacks in Gaza (and also in Lebanon and the West Bank, where settlers continue to expand), there has been little change in European foreign policy towards Israel. In March 2024, almost 200 civil society organizations [called for the suspension of the EU-Israel Association Agreement](#), as human rights and democratic principles are an essential component of the agreement. Despite these requests, the EU continues to maintain this agreement intact.

Moreover, while the narrative on Ukraine has a broad historical perspective around Soviet imperialism, in the case of Palestine, the chronology begins on October 7, 2023. It is as if nothing had happened before the Hamas attacks. Indeed, the “othering” is evident as there is a constant denial of Palestine as a political community (often speaking

only of “Gaza”, as if it were not part of a larger nation). Terms such as “Nakba”, “genocide”, “occupation”, “colonialism” or “apartheid” do not appear in the EU narrative. In line with this, Palestinian deaths appear as the consequence of a “tragedy”, a natural disaster with no apparent human causes.

## Contradictions and paralysis

While this general narrative dominates in the EU, there have been some institutional counterweights at the European level. Josep Borrell – despite the unfortunate metaphor mentioned above – has rejected von der Leyen's position on the issue. He has **publicly criticized the Commission President**, arguing in relation to her visit to Israel October 2023 that “von der Leyen's trip, with such a completely pro-Israeli position, without representing anyone but herself in a matter of international politics, has had a high geopolitical cost for Europe”.

He has also denounced the double standards of European foreign policy, which have led the EU to oppose the violation of human rights in some places and justify them in others. EU foreign policy must be agreed on by all member states, but Borrell, as High Representative for Foreign Affairs, played a key role in coordinating and seeking consensus. Spain, Belgium and Ireland are the states that have most positioned themselves on Borrell's side.

In December 2024, Estonian Kaja Kallas replaced Borrell in the second von der Leyen Commission, which clearly shifted further to the right. Kallas has emerged as a strong defender of Ukraine in its resistance against Russia, but she has not had the same attitude towards Palestine. The EU now appears paralyzed and unable to champion human rights coherently. It is a victim of its internal contradictions and its subordination to a global logic that it cannot or does not know how

to read – especially its relationship of dependence on the United States.

If a ceasefire is respected, the EU will probably be able to say that human rights and democracy are making headway in the face of bombs and thousands of dead civilians. The truth, beyond these proclamations, is that the EU's arguments about human rights increasingly lack credibility because they are so often used incoherently and with racist discretion. This allows those who do not really believe in human rights and democracy to use these terms to continue a massacre in the face or general confusion.

In contrast, a democratic European foreign policy would properly confront its own colonial past and present, moving beyond the logic of “the garden and the jungle”, hypocrisy and double standards. It is instruction that it was South Africa, and not the EU or any European country, that took Israel to the International Court of Justice on the grounds that it was committing genocide against Palestine.

The defense of human rights cannot be limited to certain communities. If it is, the EU will further erode international law and continue to reproduce the existing hierarchy between the global North and South. Rather than counterproductively pitting the struggles of Ukrainians and Palestinians against each other, European foreign policy should find ways to articulate bonds of solidarity across all anticolonial struggles.

For more information, see the authors' accompanying article in the

[Journal of Common Market Studies](#)

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Members of the European Parliament criticize EU double standards on arrest warrants

from the ICC for Israeli Prime Minister

'Now more than ever, we must support the multilateral order and continue to insist on respect for the ICC's decisions,' says EU Commissioner

Melike Pala |26.11.2024 - Update: 27.11.2024



#### ANKARA

In a heated session on Tuesday in the European Parliament (EP), the President of the European Commission, Ursula von der Leyen, sharply criticized for her alleged silence on the judgment warrants of the International Criminal Court (ICC) for Israeli officials.

The ICC issued judgment warrants for Israeli Prime Minister Benjamin Netanyahu and his former Defense chief Yoav Gallant for war crimes and crimes against humanity in the Gaza Strip.

Israel is also being charged with genocide at the International Court of Justice for its brutal war on Gaza.

MEPs also accused the EU of applying "double standards" in its handling of international law and human rights violations.

During the meeting, which was titled "The Escalating Tensions in the Middle East, the Humanitarian Crisis in Gaza and the West Bank, the role of UNRWA in the region, the need for the release of all prisoners and the ICC arrest warrants for Israeli officials", the role of the EU in the face of the humanitarian crisis Gaza and the occupied West Bank discussed.

On behalf of the Council of the EU, Hungarian Minister for European Affairs Janos Boka called on all parties in the Gaza Strip to maximum restraint and compliance with international humanitarian law.

Boka expressed his deep sorrow about the "unacceptably high number of civilian casualties, especially women and children", and stressed the EU's demand for an immediate ceasefire, the unconditional release of prisoners in Gaza and expanding access to humanitarian aid.

"The humanitarian situation in the Middle East is serious and the Council of the EU remains committed to addressing it as a top priority," Boka said.

On behalf of the EU High Representative Josep Borrell, Elisa Ferreira, EU Commissioner for Cohesion and Reforms, a pale picture of the crisis in Gaza. She pointed to the unprecedented number of civilian casualties, the large displacement and the looming threat of famine.

Ferreira reaffirmed the EU's commitment to supporting international law, including support for UNRWA (the UN's Palestinian refugee agency). All this at a time when there are growing concerns about the possible its dissolution following a bill recently passed in the Israeli parliament.

"The Israeli attacks on the UN must stop," said Ferreira, who stressed the importance of defending a rules-based world order.

She reiterated the EU's support for the ICC and agreed Member States to work together to enforce the ICC's decisions.

"Now, more than ever, we must support the multilateral order and continue to call for respect for and implementation of its decisions of the ICC," she added.

Criticism of the EU's approach was a major part of the debate. Liberal and left-wing MPs groups accused the EU of not applying international law consistently.

Irish Left MEP Lynn Boylan condemned von der Leyen's silence on the ICC executing judgment warrants and said: "The EU's credibility has been destroyed – not only in Palestine and the South, but even within its own member states. The lack of sanctions is complicity."

Greek MEP Konstantinos Arvanitis joined in, urging the EU to abide by the ICC to be applied in the same way in all cases.

"Please implement the ICC judgment warrants as you have done with previous decisions. Stop applying double standards," he said.

Slovenian MEP Matjaž Nemeč criticized the "double standards" in the EU's treatment of Israel compared to other countries, including Russia.

"Silence is complicity," Nemeč said, drawing a contrast between the arrest warrants for Russian President Vladimir Putin and Netanyahu.

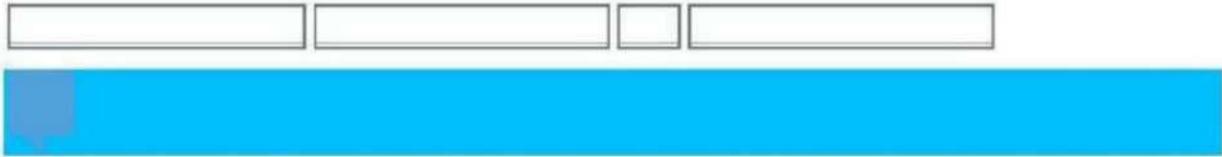
Not all lawmakers agreed with the call to action.

Far-right MEPs criticized the judgment warrants, arguing that they were politically motivated.

However, they were outnumbered by the voices calling for accountability and compliance with international law.

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## Establishment of a special court for Russia's crimes in Ukraine

by AI | 12.May 2025 |

**EU High Representative for Foreign Affairs Kaja Kallas said that during their meeting in Lviv, Ukraine and its European partners approved the creation of a special tribunal that will try war crimes committed by Russia in Ukraine.**

**At the same time, 1 billion euros were approved for Ukraine's defense industry.**



During her visit to Ukraine, during a meeting with European foreign ministers.

Source: European Commission

EU High Representative for Foreign Affairs Kaja Kallas said that Ukraine and its European partners at their meeting in Lviv approved the creation of a special tribunal that will try war crimes committed by Russia in Ukraine. At the same time, 1 billion euros were approved for Ukraine's defense industry.

"No one will go unpunished for the crimes that have been committed," Kaja Kallas said from Lviv.

"The message is important. There are many countries that are already part of the Core Group, but all countries that support the values and principles enshrined in the Charter of the United Nations should also join us and support this special Tribunal," she added in a video message posted on "X."

The agreement on the establishment of a special tribunal for the crimes of Russia was signed by the EU High Representative, Kaja Kallas, and the Commissioner for Democracy, Justice and the Rule of Law, Michael McGrath. In attendance were Ukrainian Foreign Minister Andrii

Warsaw had. Among them the foreign ministers of France, Poland, Spain, the Netherlands, and their British colleague, David Lammy. Canada also supports the creation of the special tribunal.

The core group that adopted today the Declaration for the Establishment of the Special Court is composed of member states of the Council of Europe. The meeting of the Ministerial Commission of the Council of Europe in Luxembourg on 13-14 May 2025 will be the next step towards the official establishment of the Special Court.

The special tribunal for “crimes of aggression” will cooperate with the International Criminal Court (ICC), which has already issued international arrest warrants for several Russian leaders, including Vladimir Putin.

As for the release of one billion euros for the Ukrainian defense industry, these funds will be financed from interest generated by Russian assets of the Russian Central Bank frozen in the EU.

The West has frozen Russian assets worth around €235 billion since the war began in 2022, most of which are in Europe. A few months ago, the EU decided to freeze the interest earned on these assets

**Joint Statement of the Meeting of Foreign Ministers on the Conclusion of the Work of  
the core group for the establishment of a special tribunal for the crime of  
Aggression against Ukraine**

**(“Lviv Declaration”)**

**(May 9, 2025, Lviv, Ukraine)**

We, the Ministers of Foreign Affairs and other representatives of the States participating in the Core Group for the Establishment of a Special Tribunal for the Crime of Aggression against Ukraine (the Core Group), are today, May 9, 2025, gathered in Lviv, a city that has played an important role in the formation of international legal scholars who laid the foundations for modern international criminal law,

Recalling United Nations General Assembly resolution A/RES/ES-11/1 of 2 March 2022, entitled "Aggression against Ukraine", which in the strongest terms describes the aggression of the Russian Federation against Ukraine is regretted, in violation of Article 2(4) of the Charter of Fundamental Rights of the European Union, United Nations,

Recalling United Nations General Assembly resolution A/RES/ES-11/6 of 23 February 2023, entitled "Principles of the Charter of the United Nations which underlie a comprehensive, just and lasting peace in Ukraine",

Expressing their appreciation for the work done by the legal experts within the core group with regard to the draft legislative instruments necessary for the establishment of a special tribunal for the Crime of aggression against Ukraine since January 2023,

Taking into account the Vienna-Riga Declaration of the Core Group of 22 November 2024,

Guided by the shared objective of ensuring accountability for the crime of aggression committed against Ukraine,

We hereby declare the following:

1. We welcome the completion of the technical work on the draft legal instruments necessary to establish, within the framework of the Council of Europe, a Special Tribunal for the Crime of Aggression against Ukraine.
2. We stress the crucial importance of the Special Tribunal in delivering justice by holding to account those who bear the greatest responsibility for this very serious international crime committed against Ukraine.
3. We emphasize that the Special Tribunal, once established, will, in accordance with its Statute, conduct its proceedings with full respect for international law and human rights, with the aim of ensuring accountability for the crime of aggression and strengthening the international legal order.
4. We express our gratitude to all those who actively contributed to the preparatory work for the draft legislative instruments necessary for the establishment of the Special Court, in particular the legal advisors who participate in the Core Group.

5. We underline the central role played by the Council of Europe in the establishment of the Special Court and acknowledge the important contribution of the European Commission and the European External Action Service, including their work on the draft Agreement between Ukraine and the Council of Europe on the Establishment of the Special Court, the draft Statute of the Special Court and the draft Extended Partial Agreement setting out the modalities of support for the Special Court, including its financing and other administrative aspects.

6. We reaffirm our continued commitment to the process of establishing the Special Court within the framework of the Council of Europe, to the early commencement of its work and to supporting its effective functioning.

7. To increase international support for the Special Tribunal, we call on other states and international organizations to join our efforts and support the activities of the Special Tribunal. To actively support the tribunal.

8. Those of us representing the member states of the Council of Europe look forward to it the meeting of the Committee of Ministers of the Council of Europe in Luxembourg on 13-May 14, 2025, which will be the next step in formalizing the establishment of the Special Tribunal within the framework of the Council of Europe.

\*  
This statement was made in the presence of Kaja Kallas, High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the European Commission, and Michael McGrath, Commissioner for Democracy, Justice, the Rule of Law and Consumer Protection.

Article 19 TEU provides that the Court of Justice of the EU has the task of ensuring that in the interpretation and application of the Treaties the law is observed. Member States must ensure that they have the necessary legal protection in the areas covered by Union law. An important precedent was set in ASJP (C-64/16), where the Court of Justice held that the second subparagraph of Article 19(1) TEU gives concrete legal effects to the principle of the rule of law in Article 2 TEU. This enabled the Court to hold Member States responsible for upholding the independence of the judiciary, arguing that mutual trust between courts is essential for the effective administration of justice.

The protection of the values of Article 2 TEU in the EU

## The protection of the values of Article 2 TEU in the EU

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The European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, as enshrined in Article 2 of the Treaty on European Union (TEU). In order to ensure that these values are respected, Article 7 TEU provides for an EU mechanism to determine the existence of, and potentially sanction, serious and persistent breaches of EU values by a Member State. The EU is too bound by the Charter of Fundamental Rights and has committed to accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

## From legal protection of fundamental rights to codification in the Treaties

The European Communities (EC) (now the European Union) were originally established as an international organization with an essentially economic sphere of action. There was therefore no need for explicit rules concerning respect for fundamental rights, which for a long time were not mentioned in the Treaties and were in any case considered to be guaranteed by the 1950 [European Convention for the Protection of Human Rights and Fundamental Freedoms](#) (ECHR), to which the Member States had signed.

However, after the Court of Justice of the European Union (CJEU) confirmed the principles of direct effect and primacy of European law, but refused to examine the compatibility of decisions with the national and constitutional law of the Member States ( Stork, [Case 1/58](#) ; [Ruhrkohlen-Verkaufsgesellschaft, Joined Cases 36, 37, 38-59 and 40-59](#) ), certain national courts began to express concerns about the effects that such case law could have on the protection of constitutional values such as fundamental rights. If European law were to prevail even over national constitutional law, it would become possible that it violated fundamental rights. To address this theoretical risk, the German and Italian constitutional courts each adopted a judgment in 1974 confirming their jurisdiction to interpret European law

to ensure their compatibility with constitutional rights (Solange I; Frontini). This led the CJEU to confirm, through its case law, the principle of respect for fundamental rights, stating that fundamental rights are enshrined in the general principles of Community law protected by the Court ( Stauder, [Case 29-69](#) ). These are inspired by the constitutional traditions common to the Member States ( Internationale Handelsgesellschaft, [Case 11-70](#) ) and by international treaties for the protection of human rights to which the Member States are parties ( Nold, [Case 4-73](#) ), including the ECHR ( Rutili, [case 36-75](#) ).

With the gradual extension of the EU's powers to policies that have a direct impact on fundamental rights - such as justice and home affairs, which subsequently developed into a fully fledged area of freedom, security and justice - , the Treaties were amended to firmly anchor the EU in the protection of fundamental rights. The Maastricht Treaty included references to the ECHR and the constitutional traditions common to the Member States as general principles of EU law, while the Treaty of Amsterdam reaffirmed the European 'principles' on which the EU is founded (in the Treaty of Lisbon, 'values' as listed in Article 2 TEU) and established a procedure to suspend the rights provided for in the Treaties in the event of serious and persistent breaches of fundamental rights by a Member State. The drafting of the Charter of Fundamental Rights and its entry into force, together with the Treaty of Lisbon, are the latest developments in this codification process aimed at ensuring the protection of fundamental rights in the EU.

## The EU's accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms

Since the ECHR is the main instrument for the protection of fundamental rights in Europe, to which all Member States have acceded, the accession of the EC to the ECHR seemed a logical solution to the need to link the EC to fundamental rights obligations. The Commission repeatedly proposed (in 1979, 1990 and 1993) the accession of the EC to the ECHR. The CJEU, asked for an opinion on this issue, ruled in 1996 in its [Opinion 2/94](#) that the Treaty did not confer on the EC any competence to regulate human rights or to conclude international treaties in this area, making accession legally impossible. The Treaty of Lisbon remedied this situation by introducing Article 6(2), which made EU access to the ECHR mandatory. This meant that the EU (as was already the case for its Member States) would be subject to supervision of respect for fundamental rights by a judicial body external to itself, namely the European Court of Human Rights (ECtHR). After accession, EU citizens, but also nationals of non-EU countries present on EU territory, would be able to challenge legal acts adopted by the EU directly before the ECtHR on the basis of the provisions of the ECHR, in the same way as they can challenge legal acts adopted by EU Member States.

In 2010, immediately after the entry into force of the Lisbon Treaty, the EU opened negotiations with the Council of Europe on a draft accession agreement, which were finalized in April 2013. In July 2013, the Commission asked the CJEU to rule on the compatibility of this agreement with the Treaties. On 18

In December 2014, the CJEU issued a negative opinion, stating that the draft agreement was liable to undermine the specific characteristics and autonomy of EU law ( Opinion 2/13 ). After a period of reflection and discussions on how to resolve the issues raised by the CJEU, the EU and the Council of Europe resumed negotiations in 2019, which are still ongoing.

## The Charter of Fundamental Rights of the EU

In parallel with the 'external' supervisory mechanism that the EC's access to the ECHR provided for in order to ensure the conformity of legislation and policies with fundamental rights, an 'internal' supervisory mechanism was needed at EC level to allow for a prior and autonomous judicial review by the CJEU. For this purpose, a specific Bill of Rights for the EU was necessary, and the Cologne European Council of 1999 decided to convene a Convention to draw up a Charter of Fundamental Rights.

The Charter was solemnly proclaimed in Nice in 2000 by Parliament, the Council and the Commission. After being amended, it was proclaimed again in 2007. It was only with the adoption of the Treaty of Lisbon on 1 December 2009 that the [Charter](#) acquired direct effect, as provided for in Article 6(1) TEU, and thus became a binding source of primary law.

Although the Charter is based on the ECHR and other European and international instruments, it was innovative in several ways. In particular, it includes disability, age and sexual orientation as prohibited grounds of discrimination, and includes access to documents, data protection and good governance among the fundamental rights that the Charter affirms.

The scope of the Charter is, on the one hand, potentially very broad, since most of the rights it recognizes are granted to 'everyone', regardless of nationality or status. On the other hand, Article 51 limits its application to the EU institutions and bodies and, when they are implementing EU law, to the Member States.

## Article 7 TEU, the Commission's rule of law framework and mechanism

The Treaty of Amsterdam introduced a new sanctions mechanism to ensure that fundamental rights, as well as other European principles and values such as democracy, the rule of law, equality and the protection of minorities, are respected by Member States outside the legal limits of EU competences.

This meant that the EU was given the power to intervene in areas that would otherwise be left to the Member States, in situations of 'serious and persistent breach' of these values. A similar mechanism had first been proposed by Parliament in its [1984 draft text of the EU Treaty](#). The Treaty of Nice added a preventive phase, in cases of 'clear risk of a serious breach' of EU values in a Member State. This procedure was aimed at ensuring that the protection of fundamental rights, as well as of democracy, the rule of law and minority rights, as set out in the Copenhagen criteria for accession of new Member States, would continue to apply after accession, and in the same way for all Member States.

Article 7(1) TEU provides for a 'preventive phase', empowering one third of the Member States, Parliament and the Commission to initiate a procedure whereby the Council, acting by a four-fifths majority, may determine that there is a 'clear risk of a serious breach' in a Member State of the EU values proclaimed in Article 2 TEU, including respect for human rights, human dignity, freedom and equality, and the rights of persons belonging to minorities. Before making such a determination, the Member State concerned must be heard and recommendations may be made, while Parliament must give its consent by a two-thirds majority of the votes cast and an absolute majority of its component Members (Article 354(4) TFEU). This preventive procedure was first activated on 20 December 2017 by the Commission in relation to Poland and on 12 September 2018 by Parliament in relation to Hungary, but remains blocked in the Council, where a number of hearings took place but no recommendations – let alone findings – were adopted. Furthermore, Parliament was denied the right to express its views during the Council hearings, including on Hungary, despite its role as initiator of the procedure. The Commission proposed on 6 May 2024 to close the Article 7(1) procedure against Poland.

Articles 7(2) and 7(3) TEU provide, in the event of the 'existence of a serious and persistent breach' of EU values, for a 'sanctions mechanism' that can be triggered by the Commission or by one third of the Member States (other than Parliament), after inviting the Member State concerned to submit its observations. The European Council determines the existence of the breach by unanimity, after obtaining the consent of Parliament by the same majority as for the preventive mechanism. The Council may decide to suspend certain membership rights of the Member State concerned, including its right to vote in the Council, this time by a qualified majority. The Council may decide to amend or repeal the sanctions, also by a qualified majority. The Member State concerned does not take part in the votes in the Council or the European Council. The adoption and adoption of sanctions remains difficult to achieve due to the unanimity requirement, as demonstrated by the fact that the governments of Hungary and Poland announced that they would veto such decisions in relation to the other Member State.

To bridge the gap between the politically difficult activation of Article 7 TEU procedures (used to address situations outside the scope of EU law) and limited-effect infringement procedures (used in specific situations falling within the scope of EU law), the Commission launched in 2014 an [EU Framework for strengthening](#)

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This framework was intended to seek to ensure effective and coherent protection of the rule of law as a precondition for ensuring respect for fundamental rights and democracy in situations or systemic threat to them. It is intended to precede and complement Article 7 TEU and provides for three stages: assessment by the Commission, ie a structured dialogue between the Commission and the Member State, followed, if necessary, by an opinion on the rule of law; a Commission recommendation on the rule of law; and follow-up by the Member State of the recommendation. This rule of law framework was applied to Poland in 2016 and, due to lack of success, was followed up with the [from the Commission to initiate an Article 7 procedure on December 20, 2017.](#)

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In July 2019, the Commission took a further step in its Communication rights 'the rule of law' [within the Union: A blueprint for action](#) and launched a

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rule of law mechanism, consisting of an annual evaluation cycle based on a rule of law report monitoring the situation in the Member States, which forms the basis for the interinstitutional dialogue. The first [report](#) was published in September 2020, accompanied by 27 country chapters, covering the justice system (and in particular its independence, quality and efficiency), the anti-corruption framework (legal and institutional set-up, prevention, repressive measures), media pluralism (regulatory bodies, transparency of ownership and government intervention, protection of journalists) and other institutional issues related to checks and balances (legislative process, independent authorities, accessibility, judicial review, civil society). The report significantly strengthens EU oversight by covering not only civil but also criminal and administrative justice, compared to the EU Justice Scoreboard and other monitoring and reporting instruments, paying attention to judicial independence, corruption, media pluralism, separation of powers and civil society space. A network of national contact points was set up to collect information and ensure dialogue with Member States, and dialogue was promoted with stakeholders, including bodies of the Council of Europe, the Organization for Security and Co-operation in Europe, the Organization for Economic Co-operation and Development, judicial networks and non-governmental organizations. The [Third Annual Report](#), published in July 2022, also included a set of recommendations to each Member State, the follow-up of which is to be examined in subsequent annual rule of law reports.

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The [fourth annual report](#), published in July 2023, evaluated the implementation of the previous year's recommendations and made further recommendations.

## Other instruments for the protection of EU values

The EU has other instruments to protect EU values.

When the Commission proposes a new legislative initiative, it assesses its compatibility with fundamental rights by means of an impact assessment. This aspect is then also assessed by the Council and Parliament.

The Commission also publishes an [annual report on the application of the Charter of Fundamental Rights](#), which is examined and discussed by the Council, which adopts conclusions on it, and by Parliament, in the context of its annual report on the situation of fundamental rights in the EU. In December 2020, the Commission launched a [new strategy to strengthen the implementation of the Charter in the EU](#) also with regard to EU funds through the Charter-specific 'enabling condition' introduced in the [2021 Common Provisions Regulation](#). Initially, cohesion funds for Poland and Hungary were not disbursed on this basis. On 13 December 2023, the Commission found that Hungary had fulfilled the horizontal enabling condition, allowing it to claim up to EUR 10.2 billion in funds previously blocked. In February 2024, the Commission also found that Poland had fulfilled its obligations, allowing it to request the release of up to EUR 76.5 billion in cohesion funds for 2021-2027.

Since 2014, the Council has also organized an annual dialogue between all Member States to promote and protect the rule of law, focusing on a different topic each year

As of the second semester of 2020, the Council has decided to focus each semester on examining the situation of the rule of law in five Member States, on the basis of the Commission's Rule of Law Report.

In addition, issues related to EU values are monitored under the European Semester and may be the subject of country-specific recommendations. The areas concerned include justice systems (based on the Justice Scoreboard), as well as disability, social rights and citizens' rights (regarding protection against organized crime and corruption).

Bulgaria and Romania were also covered by the Cooperation and Verification Mechanism, which closed on 15 September 2023 and was replaced by the Rule of Law Mechanism.

Infringement proceedings are an important tool to sanction breaches of EU values in the Union, and the CJEU is developing its case law on this subject. Infringement proceedings can be initiated in the event of non-compliance of a national law with EU law and values in individual and specific cases (while Article 7 also applies to situations outside the scope of EU law where breaches of fundamental rights are systematic and persistent) and the CJEU can impose financial sanctions for non-compliance with orders or judgments.

The [European Union Agency for Fundamental Rights \(FRA\)](#), established in 2007 in Vienna, plays an important role in monitoring the situation of fundamental rights in the EU. The FRA is responsible for collecting, analyzing, disseminating and evaluating information and data on fundamental rights. It also conducts research and scientific surveys and publishes annual and thematic reports on fundamental rights.

The Commission is also strengthening equality and the protection of minorities – two of the pillars of Article 2 TEU – through specific strategies, proposals and measures to promote gender equality and combat violence against women and domestic violence, racism, hate speech, hate crime and anti-Semitism, and to protect the rights of LGBTIQ people, Roma, persons with disabilities and children, under the overarching concept of 'A Union of Equality'. The Commission, supported by the Parliament and 15 Member States, referred Hungary to the CJEU about its [anti-LGBTIQ law](#) for violation of, among other things, Article 2 TEU. She also proposed guidelines for [Equality bodies](#) to be strengthened by means of common standards, which have recently been adopted.

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After a blockade caused by the vetoes of the governments of Hungary and Poland, the European Council of 10-11 December 2020 finally reached an agreement on a [regulation on a general regime of conditionality for the protection of the Union budget](#). The regulation allows for the protection of the EU budget where breaches of the rules of law in a Member State are found to affect, or seriously risk affecting, the sound financial management of the EU budget or the protection of the EU's financial interests in a sufficiently direct manner. An action brought by the Hungarian and Polish governments against the regulation was [dismissed by the CJEU](#) clearing the way for the Commission and the Council to trigger the mechanism against [Hungary](#), leading to the suspension of €6.3 billion of cohesion policy programs.

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The Commission is currently discussing the implementation of the Recovery and Resilience Facility national plans with a number of Member States and monitoring whether they meet the agreed milestones and targets, which are a condition for the disbursement of the funds. These aim to address the challenges identified in the [European Semester country-specific recommendations](#) adopted by the Council, and in the [Commission's rule of law reports and related recommendations, as well as in the Article 7 procedures](#) against Poland and Hungary. On December 13, 2023, the Commission found that Hungary had failed to address the breaches it had committed with regard to the principles of the rule of law, by not fully implementing [the related 27 super milestones, in particular the one on the independence of the judiciary, while €21 billion in funds for Hungary remained blocked](#). On May 6, 2024, she also proposed [closing the procedure under Article 7\(1\) TEU against Poland](#)

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## Role of the European Parliament

Parliament has always been committed to strengthening respect for and protection of fundamental rights in the EU. As early as 1977, it adopted, together with the Council and the Commission, a [Joint Declaration on Fundamental Rights](#) in which the three institutions undertook to ensure respect for fundamental rights in the exercise of their powers. In 1979, Parliament adopted a resolution calling for the European Community to accede to the ECHR.

The [draft Treaty establishing the European Union of 1984](#) Parliament, provided that the Union must protect the dignity of the individual and recognize for all persons within its jurisdiction the fundamental rights and freedoms resulting from the principles common to national constitutions and the ECHR. It also provided for the Union's access to the ECHR. In its [resolution of 12 April 1989](#) Parliament announced its adoption of the Declaration of Fundamental Rights and Freedoms.

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Since 1993, Parliament has held an annual debate and adopted a resolution on the situation of fundamental rights in the EU, based on a report by the Committee on Civil Liberties, Justice and Home Affairs. In addition, it has adopted a growing number of resolutions on specific issues relating to the protection of the values of Article 2 TEU in the Member States.

Parliament has always supported the EU in drawing up its own Bill of Rights and has advocated that the Charter of Fundamental Rights should be binding. This was finally achieved in 2009 with the Treaty of Lisbon.

More recently, Parliament has repeatedly expressed its serious concerns about the gradual erosion of the standards of Article 2 TEU in some Member States. To address this problem, Parliament has made a number of suggestions to strengthen the protection in the EU not only of fundamental rights, but also of democracy and the rule of law, and more generally of all EU values covered by Article 2 TEU, by proposing new mechanisms and procedures to fill the existing gaps. In several resolutions since 2012, Parliament has called for the establishment of a 'Copenhagen Commission', a European policy cycle for fundamental rights, a mechanism

for early warning, a freezing procedure and the strengthening of the Fundamental Rights Agency (FRA).

In a groundbreaking 2016 resolution on this topic, Parliament consolidated its previous proposals and called on the Commission to submit an interinstitutional agreement establishing an [EU mechanism on democracy, the rule of law and fundamental rights](#), which would be based on a Union Pact with the Commission and the Council.

This would include an annual policy cycle, based on a report on compliance with EU values within the Union, drawn up by the Commission and a panel of experts, followed by a parliamentary debate and accompanied by arrangements to address risks or breaches.

The Commission took on board many of Parliament's suggestions in its 2019 Communication (establishing an interinstitutional cycle, with an annual report, monitoring Member States' compliance with the rule of law and related issues), making specific recommendations to Member States, but not those covering the entirety of Article 2 TEU (not only the rule of law, but also democracy, fundamental rights, equality and minorities), setting up a committee of independent experts and an interinstitutional agreement on the cycle, and resuming the publication of anti-corruption reports. Parliament also called for a new draft agreement for the EU's access to the ECHR and for Treaty changes such as deleting Article 51 of the Charter of Fundamental Rights, transforming it into a Bill of Rights of the Union and removing the unanimity requirement for equality and non-discrimination. In a [2020 resolution](#), Parliament proposed the text of an interinstitutional agreement strengthening EU values, elaborating on previous proposals and adding the possibility for urgent reports and the creation of an interinstitutional working group. In a [2021 resolution](#), Parliament also called on the Commission to expand its annual rule of law report to cover all the values of Article 2 TEU and to issue country-specific recommendations

to take.

In 2018, Parliament adopted a resolution welcoming the Commission's decision to activate Article 7(1) TEU with regard to [Poland](#) resolution on the initiation of the Article 7(1) TEU procedure with regard to [Hungary](#), as well as a by submitting a reasoned proposal to the Council requesting it to determine whether there is a clear risk of a serious breach of the values referred to in Article 2 TEU and to address appropriate recommendations to Hungary in this regard [1].

In 2020

and 2022, Parliament also adopted resolutions on [Poland](#) respectively and [Hungary](#), which extended the scope of concerns to be examined in Article 7(1) TEU procedures. It [called](#) the Commission also calls on the Commission to use all available instruments, including the Rule of Law Conditionality Regulation, to address breaches of the values of Article 2 TEU by Hungary and Poland. On 29 February 2024, the Commission instructed [Poland](#) access to up to €137billion in EU funding, following the launch of an action plan to restore the rule of law with reforms to strengthen the independence of the judiciary. On March 14, 2024, Parliament decided to take legal action against the Commission over its decision to release €10.2 billion in frozen assets to Hungary in exchange for lifting its veto on Ukraine. It adopted a resolution on [Hungary's hearings in the Council under Article 7\(1\) TEU to strengthen the rule of law and their budgetary implications](#).

Following the murder of journalists Daphne Caruana Galizia in Malta and Ján Kuciak and his fiancée in Slovakia, and in order to strengthen Parliament's oversight and action on the values

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[group is tasked with addressing threats to EU values that occur across the Union and submitting proposals for action to the Committee on Civil Liberties, Justice and Home Affairs.](#)

[For more information on Parliament's activities in the field of fundamental rights during the previous term, see the EU: achievements of the European Parliament during the 2014-2019 term and challenges for the future'.](#)

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Ottavio Marzocchi

European Parliament

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OPINION OF THE ADVOCATE GENERAL

H. SAUGMANDSGAARD ØE

from May 18, 2017 [\(1\)](#)

NLCase C-64/16

Associação Sindical dos Juízes Portugueses

in return for

Tribunal de Contas

[request for a preliminary ruling from the Supremo Tribunal Administrativo (Supreme Administrative Court, Portugal)]

"Reference for a preliminary ruling – Second subparagraph of Article 19(1) TEU – Effective judicial protection –  
Charter of Fundamental Rights of the European Union – Article 47 – Independence of the judiciary  
– National scheme providing for reduction of salaries in the public sector –  
"Austerity measures"

## I. Introduction

1. The request for a preliminary ruling from the Supremo Tribunal Administrativo (Supreme Administrative Court, Portugal) has been made in proceedings between the Associação Sindical dos Juízes Portugueses (Trade Union of Portuguese Judges; 'ASJP') and the Tribunal de Contas (Court of Auditors, Portugal) concerning the reduction in the salaries of the members of that court, which was the result of a law temporarily reducing salaries in the public sector in order to mitigate the effects of the economic crisis in Portugal.

2. The referring court asks whether such a national provision is compatible with the principle of judicial independence, as it follows, in its view, from both the second subparagraph of Article 19(1) TEU(2) as Article 47 of the Charter of Fundamental Rights of the European Union (hereinafter: 'the Charter')(3), and from the case-law of the Court of Justice.

3. Before setting out the substantive reasons why I consider that the preliminary question

If the answer to the question is in the negative, I will examine the complaints raised in this case concerning the inadmissibility of the reference for a preliminary ruling and the manifest lack of jurisdiction of this Court.

## **II. Applicable provisions**

### ***A. Union law***

4. The main acts of EU law referred to in this case which aimed to reduce the excessive deficit of the Portuguese Republic and to grant it financial assistance are the following:

- Council Decision 2010/288/EU of 2 December 2009 concerning the existence of a excessive deficit in Portugal(4);
- Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilization mechanism(5);
- Agreement on an economic and financial adjustment program, better known as the "Memorandum of Understanding", signed on 17 May 2011 by the the Portuguese Government, the European Commission, the International Monetary Fund (hereinafter: 'IMF') and the European Central Bank (hereinafter: 'ECB')(6);
- Council Implementing Decision 2011/344/EU of 30 May 2011 on granting Union financial assistance to Portugal(7), as amended – in particular – by Council Implementing Decision 2012/409/EU of 10 July 2012(8), and by Council Implementing Decision 2014/234/EU of 23 April 2014(9); and
- the Council Recommendation of 18 June 2013 aimed at ending excessive government deficit in Portugal(10).

### ***B. Portuguese law***

#### **1. Law No. 75/2014**

5. Law No 75/2014, establishing the temporary salary reduction mechanism and the conditions for its reversal (Law No 75/2014 establishing the temporary salary reduction scheme and the conditions for its repeal) of 12 September 2014(11) (hereinafter 'Law No 75/2014') aims, according to Article 1(1) thereof, to determine the temporary application of the salary reduction mechanism in the public sector and to establish the principles to be observed in the event of its repeal.

6. Article 2 of that Act, entitled "Salary reduction", reads as follows:

"1 – The total gross monthly salary of the persons referred to in paragraph 9, if it exceeds EUR 1,500, regardless of whether such persons are performing their duties on that date or, for whatever reason, take up their duties after that date, reduced by:

- a) 3.5% of the total amount of salaries exceeding EUR 1,500 and less than EUR 2,000 amounts;
- (b) 3.5% of the amount of EUR 2 000, increased by 16% of the value of the total salary above EUR 2 000, so that the overall reduction is between 3.5% and 10% for salaries equal to or above EUR 2,000 and equal to or below EUR 4,165;
- c) 10% of the total value for salaries exceeding EUR 4,165.

[...]

9 – This Act applies to the officials and persons listed below:

- a) the President of the Republic;
- (b) the President of the Assembleia da República [Parliament of the Republic];
- c) the Prime Minister;
- d) the members of the Assembleia da República;
- e) the members of the government;
- f) the judges of the Tribunal Constitucional [Constitutional Court], the Tribunal de Contas [Court of Auditors] and the Attorney General of the Republic, sitting and standing magistrates of courts, judges and magistrates of administrative courts, tax courts and cantonal courts;
- (g) the representatives of the Republic to the autonomous regions;
- (h) the members of the assembleias legislativas das regiões autónomas [parliaments of the autonomous regions];
- (i) the members of the regional governments;
- j) the local elected representatives;
- (k) members of other constitutional bodies not mentioned in the preceding paragraphs and members of governing bodies of autonomous administrative authorities, in particular those exercising their functions in conjunction with the Assembleia da República;
- l) the members and employees of cabinets, administrative bodies and support services of the officials and bodies referred to in the preceding paragraphs, of the President and Vice-President of the Superior Council of the Judiciary, of the President and Vice-President of the Superior Council of the Administrative and Fiscal Courts, of the President of the Supremo Tribunal de Justiça [Supreme Court], of the President and the Magistrates of the Tribunal Constitucional [Constitutional Court], of the President of the Supremo Tribunal Administrativo, of the President of the Tribunal de Contas [Court of Auditors], of the Provedor de Justiça [Ombudsman] and of the Attorney General of the Republic;
- (m) the military personnel of the Forças Armadas e da Guarda Nacional Republicana (GNR) [Armed Forces and National Republican Guard], including military judges and advisors to the Public Prosecutor's Office, as well as other military forces;
- n) the management staff of the departments of the staff of the President and of the Assembleia da República, or other support services of constitutional bodies, of other departments and bodies of the central, regional or local public administration, and staff performing similar functions for remuneration;
- (o) managers in public service or persons treated as such, members of executive, deliberative, advisory or supervisory bodies or other statutory bodies of public institutions subject to general or special regulations, of public law legal persons whose independence derives from the fact that they are active in the field of regulation, supervision or control, of public undertakings whose share capital is wholly or mainly owned by the public authorities, of public undertakings whose operation has been awarded to a third party, of

institutions from the regional and municipal business sector, from public foundations and from other public institutions;

(p) employees holding public office in the staff of the President and of the Assembleia da República or in other constitutional bodies, as well as those holding public office in any public law employment relationship, including employees whose legal status is being reclassified or who are on extraordinary leave;

q) employees of public institutions subject to special arrangements and of public law legal persons whose independence derives from their activities in the field of regulation, supervision or control, including [the employees] of independent regulatory authorities;

(r) employees of public undertakings whose share capital is wholly or mainly owned by the government, of public undertakings and institutions of the regional and local business sector;

s) employees and managers of public and private law public foundations and of public institutions not covered by the preceding paragraphs;

t) reserve personnel, early-retirement personnel or personnel at the disposal of the Member States who are not on active duty and who are eligible for financial benefits linked to the salary of personnel on active duty.

[...]

15 – The provisions of this Article shall be binding and shall prevail over any provisions to the contrary, even if they are special or exceptional provisions, and over instruments of collective labor regulations and employment contracts, which may not override or amend these provisions.

[...]."

## **2. Act No. 159-A/2015**

7. Law No. 159-A/2015, Extinção da redução remuneratória na Administração Pública (Law No. 159-A/2015 repealing the salary reduction in the public sector) of 30 December 2015(12) (hereinafter: 'Law No 159-A/2015') has gradually repeated the discount measures of Law No 75/2014 with effect from 1 January 2016.

8. Article 2 of that law provides that "[t]he salary reduction of Law No. 75/[2014] [...] shall be withdrawn in phases in three-monthly steps during 2016 as follows:

- a) withdrawal of 40% for salaries paid from 1 January 2016;
- b) withdrawal of 60% for salaries paid from April 1, 2016;
- c) withdrawal of 80% for salaries paid from 1 July 2016;
- d) complete withdrawal of the reduction in salaries paid from 1 October 2016."

## **III. Main proceedings, preliminary question and procedure before the Court**

9. The ASJP, on behalf of some of its members, judges of the Tribunal de Contas (Court of Auditors), a special administrative appeal is filed seeking annulment of the

administrative decisions taken on the basis of Article 2 of Law No 75/2014, which introduced a temporary reduction in salary for the persons listed in that article who work in the Portuguese public sector, including magistrates(13). The judges represented by that association also request reimbursement of the amounts deducted from their salaries with effect from October 2014, plus statutory default interest, and a declaration that they are entitled to payment of their salaries without that reduction.

**10.** In support of this action, the ASJP submits that the contested salary reduction measures infringe the 'principle of judicial independence', which is laid down in Article 203 of the Portuguese Constitution(14) and enshrined in both Article 19(1) TEU and Article 47 of the Charter.

**11.** The Supremo Tribunal Administrativo states in its order for reference that, since the expenditure control measures, embodied in the salary reduction at issue in the main proceedings, were taken in the context of reducing the excessive deficit in Portugal – regulated and supervised by the institutions of the European Union – followed by financial assistance – granted and governed by legal acts of the Union, there can be little doubt that such measures were taken within the framework of Union law or are at least of European origin.

**12.** He goes on to point out that the discretionary power which the Portuguese State enjoys, in consultation with the institutions of the Union, in giving concrete form to its budgetary policy intentions does not, however, exempt it from the obligation imposed on it under Article 51(1) of the Charter to comply with the general principles of EU law, including that of judicial independence.

**13.** In this regard, he notes that the effective protection of the Union's legal order the rights arising under the second subparagraph of Article 19(1) TEU are guaranteed in the first instance by the national courts and that citizens of the Union have the right, under Article 47 of the Charter, to the independence and impartiality of those courts. According to the referring court, everything indicates that the independence of the courts and tribunals is also guaranteed by guarantees as to the legal status of their members, in particular as regards working conditions, which is why the unilateral and continuous reduction in the salaries of the clients of the applicant the main proceedings have been contested.

**14.** Consequently, by decision of 7 January 2016, received at the Court on 5 February 2016, the Supremo Tribunal Administrativo decided to stay the proceedings and to refer the following question for a preliminary ruling:

'In view of the imperative requirement to eliminate the excessive budget deficit and the financial assistance provided for in provisions [of EU law], must the principle of judicial independence – as it follows from the second subparagraph of Article 19(1) TEU, Article 47 of the [Charter] and the case-law of the Court of Justice – be interpreted as precluding the salary reduction measures to which magistrates in Portugal are subject, on the ground that they have been imposed unilaterally and continuously by other public authorities/bodies, as is apparent from Article 2 of Law No 75/2014]?'

**15.** Written observations were submitted by the ASJP, the Portuguese Government and the European Commission. Representatives of the Portuguese Government and the European Commission were present at the hearing on 13 February 2017.

#### **IV. Analysis**

**16.** Before examining the merits of the reference for a preliminary ruling, I would like to draw attention to the fact that two objections have been raised in this case: one objection that the reference is inadmissible and one objection that the Court lacks jurisdiction. As regards the order in which the two objections should be dealt with,

I note that the jurisdiction of the Court should, in principle, be examined first. Nevertheless, it seems to me appropriate in this Opinion to deal first with the admissibility of the reference for a preliminary ruling, since in the present case it raises less complex questions than the examination of the jurisdiction of the Court, and since that examination is more closely linked to the provisions whose interpretation is sought, that is to say to the substantive analysis, which follows immediately thereafter.

#### ***A. Admissibility of the request for a preliminary ruling***

17. The Portuguese Government and the Commission have raised two types of complaint which are capable of affecting the admissibility of this reference for a preliminary ruling. The first concerns the imprecise reasoning of the order for reference, the second the fact that the national measures contested in the main proceedings had already been withdrawn at the time the case was brought before the Court.

##### ***1. Gaps in the referral decision***

18. In its written and oral observations, the Commission first stated that the order for reference is defective, in particular since it neither clearly indicates which case-law of the Court is relevant for the interpretation of the provisions of EU law referred to in the question referred for a preliminary ruling nor the reasons why it selected those provisions<sup>(15)</sup>, and that it follows that the Court must declare that it has no jurisdiction to answer that question.

19. However, I am of the opinion that the complaints thus raised against the content of the order for reference may affect the admissibility of the reference for a preliminary ruling rather than the jurisdiction of the Court.<sup>(16)</sup>

20. It is indeed essential, as the Commission points out, that the referring court formulates its request clearly and precisely, since that document constitutes the sole basis for the proceedings before the Court, both for the Court itself and for the participants in the proceedings.<sup>(17)</sup> The substantive requirements which the request for a preliminary ruling must satisfy are explicitly set out in Article 94 of the Rules of Procedure of the Court of Justice, of which the referring court is expected, in the context of the cooperation established by Article 267 TFEU, to be aware and which it must scrupulously observe. It is particularly necessary for the national courts to set out, in the order for reference itself, the legal context of the main proceedings and to make clear not only the reasons for choosing the provisions of EU law whose interpretation is sought but also the relationship between those provisions and the national legislation applicable to the dispute.<sup>(18)</sup>

21. In the present case, the reasoning of the decision to refer is particularly short, particularly from two important perspectives, so that one may wonder whether the request for a preliminary ruling it contains is admissible.

22. First, as regards the relationship between the contested national measures and the provisions whose interpretation is sought in the question referred for a preliminary ruling – namely the second subparagraph of Article 19(1) TEU and Article 47 of the Charter – the referring court is not very clear, since it merely indicates that, in its view, those provisions give rise to a general principle of judicial independence which the measures in question may have infringed,<sup>(19)</sup> without providing further details.

23. Secondly, the question referred for a preliminary ruling refers to the 'case-law of the Court of Justice' from which this principle of judicial independence is also said to derive, but the grounds for the order for reference do not cite any decision of that Court to that effect. The referring court merely relies on the existence of 'numerous [...] judgments' of the Court concerning the concept of 'court or tribunal' within the meaning of Article 267 TFEU in which the independence of the body which had requested a preliminary ruling was taken into account, without however also

but to mention one of those – according to him relevant – judgments. In the absence of adequate information, I do not think it is necessary to rule on this aspect of the question submitted to the Court.

24. Notwithstanding the gaps in the order for reference noted above, it seems to me, in the light of all the information obtained in that order and during the exchange of views, that the Court is nevertheless sufficiently informed to be able to rule on the possible interpretation of Article 19 TEU and Article 47 of the Charter and, therefore, to be able to give a useful answer to the question referred.(20)

## ***2. Withdrawal of the contested measure before the Court***

25. In its written observations, the Portuguese Government argued that the request for a preliminary ruling was inadmissible because, at the time it was brought before the Court, it had become devoid of purpose due to changes in Portuguese national legislation which, in the course of 2016, led in turn to the full restoration of the salary rights at issue in the main proceedings. That Government concluded from this that the Court no longer needed to answer the question referred to it, since it had become hypothetical.(21)

26. At the hearing, the Government confirmed that the salary reduction in the public sector resulting from Law No 75/2014 was phased in by Law No 159-A/2015 between 1 January and 1 October 2016(22) in its entirety – but without retroactive effect. It follows that the loss which the persons represented by the applicant in the main proceedings claim to have suffered as a result of the salary reduction with effect from October 2014 continued into the past and until 1 October 2016, on which date the salaries of all persons employed in the public sector to whom that reduction had applied were restored to their previous level.

27. The Portuguese Government, however, argued that the question referred for a preliminary ruling concerning the alleged infringement of judicial independence caused by Law No 75/2014, a potential problem that had already been resolved at the time of the referral to the Court on 5 February 2016 by the repeal of the effects of that law by Law No 159-A/2015, adopted on 30 December 2015 and entering into force on 1 January 2016. It added that the effects of Law No 75/2014 prior to its repeal, as relied on by the ASJP, were exclusively of a property-law nature and that, in its view, that problem did not form part of the subject-matter of the request for a preliminary ruling.

28. In this regard, I would like to point out that there is a presumption of relevance to the questions concerning the interpretation of EU law given by the national court within the factual and legal context which it is its own responsibility to establish, the correctness of which is not for the Court to verify. The Court may reject a request from a national court only where it is clear that the interpretation of EU law sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical and where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it. (23)

29. According to settled case-law, it is clear from both the wording and the scheme of Article 267 TFEU that the preliminary ruling procedure presupposes that a dispute is actually pending before the national court, in the context of which it must give a ruling taking into account the preliminary ruling. (24) Therefore, where the main proceedings had already ceased to have a purpose at the time when the referring court referred the case to the Court, the Court declared the request for a preliminary ruling inadmissible, (25) whereas a declaration that there is no need to adjudicate is in principle reserved for cases in which the relevant incident or event occurred in the course of the proceedings before the Court. (26)

30. In particular, the Court shall not rule on a request for a preliminary ruling if the national provisions initially applicable to the main proceedings have been repealed or not

longer apply because of their unconstitutionality.(27) However, the Court has held that the fact that an amendment to the national legislation concerned was imminent does not affect the admissibility of the request for a preliminary ruling if it is apparent from the information contained in the request that an answer from the Court to the questions referred will determine the outcome of the main proceedings.(28)

31.

In the present case, I consider that it is not clear from the information submitted to the Court that the interpretation of EU law sought is unrelated to the subject matter of the main proceedings or that the issue raised is hypothetical in nature.

32. Contrary to what the Portuguese Government stated, the dispute before the referring court does not concern judicial independence as such, since the principle of judicial independence was invoked solely as a plea in support of the application for annulment of the allegedly unlawful administrative decisions reducing the salaries of the persons represented by ASJP and for reimbursement of the amounts wrongly withheld from their salaries under Law No 75/2014.

33. Furthermore, since Law No 159-A/2015, which amended Law No 75/2014, had not, at the date on which the request for a ruling preliminary was lodged, (29) reversed the contested salary reductions either in the past or immediately, in their entirety, it appears that, as at that date, there was still an obligation on the referring court – which considered it possible that the national legislation at issue interfered with EU law – to rule on the subject-matter of the action and, consequently, a need for the Court to answer the question referred for a preliminary ruling.

34. In view of the foregoing, I consider that this request for a preliminary ruling is admissible.

### ***B. Jurisdiction of the Court***

35. In support of its action in the main proceedings, the applicant in the main proceedings alleges that the contested administrative decisions are unlawful, on the ground that the national legislation implementing them, namely Law No 75/2014, is not consistent with EU law, since it infringes the 'principle of judicial independence' as it follows, according to that party, from both the second subparagraph of Article 19(1) TEU and Article 47 of the Charter. The referring court adopts this common approach to both provisions not only in the wording of the question referred for a preliminary ruling but also in the grounds for that question.

36. In order to rule on the objections of lack of jurisdiction raised by the Portuguese Government and the Commission, I consider that an independent analysis of the second subparagraph of Article 19(1) TEU is necessary, separate from that of Article 47 of the Charter, since the criteria for the applicability of those provisions and, therefore, for the question whether the Court has jurisdiction to interpret them, are, in my view, different.

#### ***1. Article 19, paragraph 1, second subparagraph, TEU***

37.

In their written and oral observations, the Portuguese Government and the Commission have not explicitly stated the reasons why, in their view, the Court would not have jurisdiction to rule on the separate interpretation of Article 19 TEU. In fact, they argued at length that the national legislation at issue in the main proceedings does not constitute a measure implementing Union law within the meaning of Article 51 of the Charter, from which, in their view, it follows that there is no need to interpret Article 47 of the Charter, and it seems to me that they have proposed similar reasoning in relation to Article 19 TEU.(30)

38. However, I consider that an extensive interpretation – or even an interpretation by analogy – is not possible in this regard, given the specific wording of Article 19 TEU, which differs from that of Article 51(1) of the Charter, to which provision I shall return later(31), but which I have already referred to

point out that it limits the scope of the Charter to measures of the Member States implementing provisions of Union law.

39. Without prejudging the substantive analysis, which will examine the content and scope of Article 19 TEU(32) will be determined in more detail, it must now be determined whether the Court has jurisdiction in the present case to interpret that article by reason of the possible applicability – in a context such as that in the main proceedings – of its provisions and, in particular, of the second subparagraph of paragraph 1 thereof, to which the question referred for a preliminary ruling refers.

40. Under that second paragraph, 'Member States shall provide remedies sufficient *to ensure effective legal protection in the fields covered by Union law*'.<sup>(33)</sup> That last phrase, which is characteristic of that provision, is, in my view, decisive for assessing whether the Court has jurisdiction to interpret it in the present case.

41. In my view, the effective judicial protection with access to adequate remedies to which individuals must be able to rely under this paragraph is required of the Member States when national courts exercise their judicial activity in areas covered by EU law, that is to say, as European courts. I consider that this may be the case for courts dealing with the system at issue in the main proceedings, since they may be required to decide disputes to which EU law applies and for which the possibility of having recourse to such remedies must be guaranteed.

42. That finding is, in my view, sufficient to hold that the Court has jurisdiction in the present case to interpret the second subparagraph of Article 19(1) TEU. That jurisdiction must now be demonstrated for the interpretation of Article 47 of the Charter, as requested, since the criteria for the application of that plea are not formulated in the same way as those for the application of Article 19 TEU, even if those different criteria may lead to the same result.

## **2. Article 47 of the Charter**

43. According to settled case-law, the fundamental rights guaranteed within the EU legal order, including the 'right to an effective remedy and to a fair trial', enshrined in Article 47 of the Charter, are applicable in all situations governed by EU law, but not outside them. (34) Thus, Article 51(1) of the Charter provides that the provisions of the Charter are addressed to the Member States only 'when they are implementing Union law', in accordance with the Court's case-law on that concept. (35) Article 6(1) TEU, which confers binding force on the Charter, provides, like Article 51(2) of the Charter, that the provisions of the Charter shall in no way extend the competences of the Union as defined in the Treaties. Consequently, where a legal situation does not fall within the scope of EU law, the court has no jurisdiction to hear it and any provisions of the Charter which may be relied upon cannot in themselves constitute a basis for such jurisdiction.<sup>(36)</sup>

44. In the present case, both the Portuguese Government and the Commission argue that the requirements are not met the conditions under which it could be concluded that the adoption and implementation by the Portuguese Republic of the measures pursuant to Article 2 of Law No 75/2014 implements EU law within the meaning of Article 51 of the Charter and that, therefore, the Court manifestly lacks jurisdiction to interpret Article 47 of the Charter.

45. I recall that the Court apparently declared itself incompetent to answer the substantive question to previous requests for a preliminary ruling, also submitted by Portuguese courts, on the ground that the order for reference did not contain any specific information allowing it to be assumed that the national measures at issue in those cases, which are comparable to those at issue in the main proceedings<sup>(37)</sup>, were intended to implement EU law within the meaning of the aforementioned Article 51<sup>(38)</sup>.

<sup>1</sup> Unlike in those cases, however, in this case there does not appear to be any obvious lack of jurisdiction, since

the referring court has provided more explicit indications, despite brief ones, which suggest that the present case involves the implementation of EU law.

46. The referring court explains that the salary reduction measures referred to in Article 2 of Law No 75/2014 are justified by compelling reasons of budgetary consolidation; it then lists a series of measures of EU law concerning the excessive public deficit of the Portuguese State and the financial assistance granted to that Member State. (39) Nevertheless, it is not easy to identify the reasons why that court considers that there is a direct link between the measures at issue in the main proceedings and one or other provision of EU law, since it does not elaborate on this point. (40)

47. Thus, the referring court does not specify the legal framework – as regards the provisions of EU law applicable at the time – within which the contested national measures were adopted. In particular, it does not draw a clear distinction, as the Portuguese Government emphasized at the hearing, between, on the one hand, the stage at which the Portuguese State was bound by EU law rules relating to the reduction of an excessive deficit and, on the other hand, the stage at which the scheme containing the obligations arising from the granting of financial assistance by the Union became applicable. was.

48. As Advocate General Bot pointed out in another case concerning austerity measures taken by a Member State in the context of obligations entered into with the European Community, in order to determine whether the provisions of the Charter are applicable from the perspective of Article 51 thereof(41) – not only the wording of the national provisions in question but also the content of the EU law instruments in which those obligations are laid down. In that regard, he has also rightly pointed out that it is of little relevance that those instruments give the Member State concerned scope for maneuver as regards the measures best suited to ensuring compliance with those obligations, since the relevant provisions concern objectives which – unlike mere recommendations addressed by the Council on the basis of Article 126 TFEU to Member States whose government deficit is deemed to be excessive – are sufficiently detailed and precise to constitute specific EU law provisions in that regard.(42)

49. In the present case, the referring court does not rely on the wording of Law No 75/2014 to characterize the relationship between that law and EU law. Indeed, that law does not refer anywhere to an act of EU law, unlike the explanatory memorandum to the draft law which led to its adoption, which demonstrates the relationship with budgetary obligations arising from EU law.(43)

50. By contrast, the referring court, like the ASJP, relies in particular on the agreement on an economic and financial adjustment program concluded by the Portuguese State in May 2011(44) and, lastly, on Council Implementing Decision 2012/409 of 10 July 2012 granting Union financial assistance to Portugal, as well as on the Council Recommendation of 18 June 2013 with a view to putting an end to the excessive government deficit in Portugal.

51. In that regard, I would point out that, by their very nature, recommendations of the EU institutions – unlike decisions – are not binding acts. (45) Furthermore, I agree with the Portuguese Government (46) and the Commission that the abovementioned recommendation, which is based in particular on Article 126(7) TFEU, does not contain sufficiently specific and precise objectives to allow the Portuguese State to be considered to have implemented requirements of EU law within the meaning of Article 51 of the Charter by virtue of that recommendation.

52. As regards Implementing Decision 2012/409, mentioned by the referring court, I would point out that it was replaced by Council Implementing Decision 2014/234 of 23 April 2014, which was therefore applicable ratione temporis at the time when the contested measures were adopted pursuant to Law No 75/2014, adopted on 12 September 2014. Article 1 of the latter decision amended Implementing Decision 2011/344, which initially laid down the conditions for the grant of financial assistance

assistance to the Portuguese Republic by the Union in line with Regulation No 407/2010. (47) It is apparent from paragraph 2 of that article that the Portuguese State was required to take specific measures in the course of 2014, 'in line with the provisions of the Memorandum of Understanding', and not merely general ones, (48) which, in the context of 'the 2015 consolidation strategy', included in particular 'the Government developing in 2014 a single salary scale, to be introduced in 2015, aimed at rationalizing and ensuring consistency in remuneration policies for all careers in the public sector'. (49) The discretion which that Member State certainly enjoyed in the exercise of its budgetary powers to determine which precise economic corrective measures it considered most appropriate for achieving the objectives thus prescribed does not affect that analysis. (50)

53. Although serious doubts may arise from the fact that the order for reference is not very clear on this issue, I am nevertheless inclined to take the view that the adoption of measures to reduce salaries in the public sector under Article 2 of Law No 75/2014, which is at issue in the main proceedings, implements provisions of EU law within the meaning of Article 51 of the Charter and that, consequently, the Court has jurisdiction to answer the request for a preliminary ruling also in so far as it concerns Article 47 of the Charter.

### ***C. On the merits***

#### ***1. Subject of the preliminary question***

54. In support of its claims, the ASJP stated that the legal position of sitting magistrates should not be confused with the legal position of government officials in general, who find themselves in a more uncertain situation. Relying on, *inter alia*,

(51) the European Charter on the Statute for Judges(52) adopted under the auspices of the Council of Europe, it states that the stability of the remuneration of serving judges and its setting at a level which is resistant to attempts from outside to influence their decisions makes it possible to comply, in particular, with the principles of independence and impartiality, which are safeguards for judicial activity. It occurs that the principle of judicial independence, in particular in financial terms, which derives from Article 19 TEU and Article 47 of the Charter, precludes decisions to reduce salaries, such as those at issue in the main proceedings, which are taken unilaterally by the executive and legislative authorities of a Member State.

55.

In the same vein, the Court is essentially asked in the order for reference to determine whether there is a general principle of EU law requiring the authorities of the Member States to respect the independence of national courts and, as regards the circumstances of the main proceedings, more specifically to leave their salaries intact at a level sufficient to enable them to perform their duties freely.

56. The referring court considers that such a principle and such consequences flow from both the second subparagraph of Article 19(1) TEU and Article 47 of the Charter, (53) which provisions the Court will, in my view, have to interpret separately (54) if it considers that it has jurisdiction to interpret them. (55) Like the Portuguese Government and the Commission, I do not share the referring court's substantive position for the reasons set out below.

#### ***2. Interpretation of the second subparagraph of Article 19(1) TEU***

57. In support of their argument that the second subparagraph of Article 19(1) TEU expresses a general principle of EU law which affirms judicial independence and which precludes the national measures at issue in the main proceedings, the referring court and the ASJP argue that, from a functional point of view, the courts sitting in the Member States are also European courts, since, in particular by virtue of that provision, they primarily ensure the effective protection of the rights arising from the EU legal order.

58. Although the second subparagraph of Article 19(1) TEU provides that 'Member States shall provide remedies sufficient to ensure effective judicial protection in the fields covered by Union law', (56) and the magistrates of the national courts responsible for that purpose contribute to such judicial protection, the fact remains that the interpretation of the becoming of that provision requires that it be examined in its context.

59. In that context, I would point out that Article 19 TEU is included in Title III of that Treaty, entitled 'Provisions governing the institutions', which lays down a number of general rules concerning the framework conditions within which the various institutions of the European Union – and in particular the Court of Justice of the European Union referred to in the aforementioned Article 19 – exercise the powers referred on them.

60. Furthermore, in the light of the provisions of paragraphs 1 to 3 of Article 19 TEU, it seems to me that the aforementioned concept of 'effective judicial protection' was developed in close connection with the exercise of the functions of the Court of Justice of the European Union: the first three paragraphs are devoted to its composition and powers. In particular, the first subparagraph of paragraph 1 confers on that institution, which consists of both the Court of Justice and the General Court, the task of ensuring that in the interpretation and application of the Treaties the law is observed, (57) it being noted that there are exceptions to the 'rule of general jurisdiction' laid down in that paragraph. (58)

61. It follows from case law that the second paragraph of the aforementioned paragraph 1 once again sets out the obligation of the Member States confirm that they must 'provide a system of remedies and procedures capable of ensuring respect for the fundamental right to effective judicial protection'.(59) This second paragraph is therefore not directly aimed at national courts, but is intended to ensure that remedies exist in the Member States so that every individual can enjoy such protection in all areas where EU law applies. This requirement is linked to the fact that judicial review of compliance with the legal order of the European Union is ensured not only by its own courts but also, by virtue of the two subparagraphs of the aforementioned paragraph, in cooperation with national courts.(60)

62. The Court has emphasized that that obligation also follows from Article 47 of the Charter with regard to measures taken by the Member States for the implementation of EU law within the meaning of Article 51(1) of the Charter. (61) The first paragraph of Article 47 expressly grants everyone whose rights and freedoms guaranteed by EU law are violated the right to an effective remedy before a tribunal, in compliance with the conditions laid down in that article.

Without prejudging the interpretation of that article and its possible consequences with regard to the facts of the main proceedings,(62) I would point out at this stage that the purpose and content of Article 47 are different from those of Article 19 TEU.

63. As regards Article 19 TEU, the Court has held that it is a matter for the domestic law of each Member State to designate, in compliance with the requirements laid down in particular in the second subparagraph of paragraph 1 thereof, the courts or tribunals having jurisdiction and to lay down the detailed rules of procedure for actions for the protection of the rights which individuals derive from EU law. (63) It seems to me that the purpose of that subparagraph, which requires Member States to provide the remedies necessary to protect those rights effectively, is primarily procedural.

64. In the light of the foregoing, I agree with the Portuguese Government(64) that the concept of 'effective judicial protection' within the meaning of the second subparagraph of Article 19(1) TEU should not be confused with the 'principle of judicial independence' referred to in the question and which is said to flow from that provision.(65)

65. Furthermore, it seems to me that the difference between, on the one hand, the right to effective judicial protection, which must be guaranteed to the individuals of the Member States by means of adequate legal remedies, and, on the other hand, the right to a trial by judges who exercise justice in a completely independent manner, which is also recognized in the interests of those individuals, is clear, having regard to both the title and the wording of Article 47 of the Charter, which distinguishes between the two rights.(66) The distinction is made

This is also made clear in the European Convention on Human Rights and Fundamental Freedoms(67), since the 'right to an effective remedy' before a national authority is provided for in Article 13 thereof, while the 'right to a fair trial', including in particular the right of everyone 'to have his case heard by an independent tribunal', is set out in Article 6 thereof(68), even though the two articles are clearly materially linked(69). I will return to this when interpreting Article 47 of the Charter.(70)

66. In my view, the obligation imposed on Member States by the second subparagraph of Article 19(1) TEU to provide for a system of 'remedies' is linked only to the right to 'effective judicial protection', as is clear from the becoming of that provision, and not to the right to a fair trial before an independent tribunal, which has a substantially different content.

67. Consequently, I consider that the second paragraph must be interpreted as not establishing a general principle of EU law requiring the independence of the judges of all courts of the Member States to be guaranteed.

68. If the Court were to hold that the principle of judicial independence flows directly from the requirement of effective judicial protection laid down in the second subparagraph of Article 19(1) TEU, as the referring court considers, I would consider, in the alternative, in any event that neither that provision nor that principle(71) can be understood as precluding national measures reducing salaries such as those contested by the applicant in the main proceedings, since they are in no way specifically aimed at judges but, on the contrary, are of general application(72) since they apply to a large group of persons employed within the public sector.(73)

### ***3. Interpretation of Article 47 of the Charter***

69. Like the ASJP, the referring court submits that, under Article 47 of the Charter, the courts of the Member States must provide effective judicial protection of the rights conferred on citizens by the EU legal order in an independent and impartial manner and that the unilateral salary reduction at issue in the main proceedings may have undermined the independence of the judges concerned.

70. In this regard, I would recall – as Advocate General Wathelet recently explained(74) – that the Charter, as is apparent from its title(75) and the wording of Article 47 thereof, recognises, on the one hand, the right to an effective remedy, which is also enshrined in Article 13 of the ECHR, and, on the other hand, the right to a fair trial, including the right of access to an independent and impartial tribunal, which is enshrined in Article 6(1) of the ECHR.

71. Since the content of the aforementioned Article 47 is directly inspired by those provisions of the ECHR,(76) Article 52(3) of the Charter requires it to be interpreted not only in the light of the explanations to the Charter but also in the light of the case-law of the European Court of Human Rights ('the ECtHR')(77), so that the rights guaranteed by Article 47 have in principle the same meaning and scope as those granted by the ECHR, although that rule does not prevent EU law from providing more extensive protection. It has been pointed out from the outset(78) that the protection afforded by Article 47 of the Charter provides protection whose substantive scope is broader than that of the corresponding articles of the ECHR.(79)

72. In the light of the case-law relating to the ECHR and the Protocols annexed thereto,(80) it seems to me that the 'principle of judicial independence' referred to in this request for a preliminary ruling falls within the right of '[e]very person to have his case heard by an independent and impartial tribunal' under the second paragraph of Article 47 of the Charter,(81) rather than within the 'right to an effective remedy' provided for in the first paragraph of that article. (82)

73. Both the referring court and the ASJP submit that the principle of judicial independence 'may preclude the salary reduction measures to which magistrates in Portugal are subject, on the grounds that they have been imposed unilaterally and continuously by other public authorities/bodies'.(83)

74. The ECtHR has repeatedly held that the guarantee of an "independent tribunal" within the meaning of Article 6(1) of the ECHR(84) not only requires that judges be independent in their legal position(85) but also in the exercise of their functions. The latter has an internal dimension within the judiciary (86), which is not at issue in this case, as well as an external dimension beyond it, which implies that judges must be able to do their work without being influenced by the parties to the proceedings(87) or by the other powers within the State,(88) which, in my view, is the only approach advanced by the ASJP. I would stress that the Court has adopted a similar approach when establishing the criteria for assessing whether a national court is independent.(89)

75. As regards, more specifically, the independence of members of a judicial body from the point of view of their remuneration, the ECtHR has accepted the interdependence between the two by holding that 'the failure to pay judges their remuneration in a timely manner is incompatible with the need to ensure that they are able to exercise their judicial functions independently and impartially, resistant to external pressures aimed at influencing their decisions and conduct', emphasizing in this regard that 'judicial independence is a sensitive issue'.(90)

76. This analysis is based on several Council of Europe legal instruments which mention such concerns. Article 6 of the European Charter on the Statute for Judges, which has no binding effect, states that the remuneration of judges must be set at a level which ensures that they are not exposed to any pressure which could undermine their independence, even though the level of such remuneration may vary from one judge to another on the basis of objective criteria, such as the importance of the duties assigned to them.(91) Furthermore, recommendations of the Committee of Ministers(92) have stated that '[t]he remuneration of judges should be proportionate to their role and responsibilities and at a level which enables them to stand with any external pressure which may influence their decisions' and that '[s]pecific legal provisions should be adopted to make it impossible to make reductions in the salary of judges specifically targeted'.(93)

77. In the light of the foregoing, I consider that the right of everyone to have his case heard by an independent tribunal, within the meaning of Article 47 of the Charter, requires that the independence of the members of that tribunal be guaranteed by providing them, having regard to the responsibilities they bear, with a remuneration that is sufficiently high and stable to protect them from any risk of external interference or pressure prejudicial to the neutrality of the judicial decisions which they are called upon to take.

78. While the level of remuneration of judges must be consistent with the importance of the public function which they perform, that amount must not be disproportionate to economic and social reality and, in particular, to the average standard of living in the State in which the persons concerned perform their duties.(94) Furthermore, reasonable stability of their income means, in my view, that it must not vary over time to such an extent as to jeopardize the independence of their judgment, but not that any change is ruled out.

79. More specifically, in a period of serious economic crisis such as that which prevailed in the period preceding the adoption of the measures at issue in the main proceedings, (95) the principle of judicial independence cannot be understood as precluding a reduction in the remuneration of judges, even though such a reduction must of course remain within reasonable proportions in order to avoid making them susceptible to any pressure that may be brought to bear on them. A fair balance must be struck, as the Portuguese Government submits, between the general interest of the Community and the particular interest of the judges, who are responsible for ensuring that the rights conferred on individuals are respected.

80. Moreover, the contested discount measures – as I(96) as the Portuguese Government(97) and the Commission have already emphasized – does not concern only sitting magistrates but a large number of people working in the public sector.

Since the measures were by no means aimed exclusively or even specifically at judges, it cannot be assumed that the 'other public authorities/bodies' mentioned in the question referred would have attempted to unbalance members of the judiciary, especially since members of both the legislature and the executive were affected by exactly the same austerity measures under Article 2 of Law No 75/2014.

81. Accordingly, I consider that Article 47 of the Charter should be interpreted as meaning that does not oppose the adoption of national measures such as those contested in the main proceedings, since they do not infringe the principle of judicial independence laid down in that article.

82. A contradictory interpretation would in practice have the consequence, in my view regrettable, that in the event of a serious economic crisis the Member States would be deprived of the possibility of a necessary – not exclusively concerning judges and not disproportionate – intervention in the salaries of persons who are part of the public sector in the broad sense.

#### **V. Conclusion**

83. In the light of the foregoing, I propose that the Court answer the question referred for a preliminary ruling by the Supremo Tribunal Administrativo as follows:

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"The second subparagraph of Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding general measures to reduce salaries in the public sector to which judges are subject under national legislation such as that at issue in the main proceedings."

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Original language: French.

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Article 19 TEU reads as follows: '1.

The Court of Justice of the European Union shall comprise the Court of Justice, the General Court and specialized courts. It shall ensure that in the interpretation and application of the Treaties the law is observed.

Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General. [...]

The Court of Justice of the European Union shall give judgment in accordance with the Treaties [...]."

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3 Article 47 of the Charter, entitled 'Right to an effective remedy and to a fair trial', provides in its first and second paragraphs: 'Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.'

Everyone has the right to a fair and public hearing within a reasonable time,

by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.”

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<sup>4</sup> OJ 2010, L 125, p. 44 and corrigendum OJ 2014, L 106, p. 46.

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<sup>5</sup> OJ 2010, L 118, p. 1.

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<sup>6</sup> The original English document can be found at the following web address: <https://www.imf.org/external/np/loi/2011/prt/051711.pdf>.

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<sup>7</sup> OJ 2011, L 159, p. 88.

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<sup>8</sup> OJ 2012, L 192, p. 12.

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<sup>9</sup> OJ 2014, L 125, p. 75.

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<sup>10</sup> Original English document: Council recommendation with a view to bringing an end to the situation of an excessive government deficit in Portugal, June 18, 2013, 10562/13.

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<sup>11</sup> *Diário da República*, 1st series, No. 176 of September 12, 2014, p. 4896. Draft Law No. 239/XII, approved by the Council of Ministers on 3 July 2014 and which led to Law No. 75/2014, can be consulted at the following address: [https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetalheDiplomaAprovado.aspx?BID=18267](http://www.parlamento.pt/ActividadeParlamentar/Paginas/DetalheDiplomaAprovado.aspx?BID=18267).

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<sup>12</sup> *Diário da República*, 1st series, no. 254 of December 30, 2015, p. 10006-(4). The text of Law No. 159-A/2015 can also be consulted at the following web address: <http://www.parlamento.pt/ActividadeParlamentar/Paginas/DetalheDiplomaAprovado.aspx?BID=19068>.

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<sup>13</sup> As regards that category, see the list in the aforementioned Article 2, paragraph 9, point (f).

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<sup>14</sup> According to Article 203, "the courts shall be independent and subject only to the law".

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<sup>15</sup> The Commission also stated that the referring court does not explain the reasons why the magistrates were affected in particular by a national measure which concerns a large number of office-holders. Since, in my view, this argument concerns substantive EU law rather than procedural rules, I prefer to deal with it in that context (see points 54 et seq. of this Opinion).

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<sup>16</sup> Where the order for reference does not contain sufficient information on the legal and factual context of the main proceedings or on the reasons justifying the need for an answer to the questions referred for a preliminary ruling in order to resolve the dispute, the Court will generally declare the request for a preliminary ruling inadmissible, in whole or in part (see, in particular, judgments of 18 July 2013, ÖFAB, C-147/12, EU:C:2013:490, paragraphs 44 to 46, and of 4 May 2016, Philip Morris Brands and Others, C-547/14, EU:C:2016:325, paragraphs 47 to 53, and order of 8 September 2016, Google Ireland and Google Italy, C-322/15, EU:C:2016:672, paragraph 15 et seq.).

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<sup>17</sup> The order for reference must provide sufficient information, firstly to the Court, to enable it to give a useful answer to the question referred for a preliminary ruling and, secondly, to all the interested parties designated in Article 23 of the Statute of the Court of Justice of the European Union – and in particular the 28 Member States – to whom the order for reference is served after translation, so that they can submit any observations.

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<sup>18</sup> The Court has repeatedly recalled these rules in its case-law (see, in particular, the passages in the judgments referred to in footnote 16 of this Opinion and the case-law cited therein) and in its 'Recommendations to national courts and tribunals on the initiation of preliminary ruling proceedings', updated in 2016 (OJ 2016 C 439, pp. 1 to 8, and in particular paragraphs 14 to 18 and the summary annex 'Essential elements of a request for a preliminary ruling'). See also Gaudissart, MA, 'Les recommandations de la Cour de justice aux jurisdictions nationales, relatives à l'introduction de procédures préjudiciales', *Journal de droit européen*, 2017 No 2, p. 42 et seq.

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<sup>19</sup> With regard to the reasoning of the referral decision, see points 11 et seq. of this Opinion.

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<sup>20</sup> See, by analogy, judgments of 12 February 2015, Surgicare (C-662/13, EU:C:2015:89, paragraphs 16 to 23), and of 11 June 2015, Lisboagás GDL (C-256/14, EU:C:2015:387, paragraphs 24 to 27).

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<sup>21</sup> The Portuguese Government has put forward these arguments in the alternative, in the event that the Court were to declare itself competent to rule on the request for a preliminary ruling.

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[22](#) See points 7 and 8 of this Opinion.

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[23](#) See, in particular, judgments of 8 December 2016, *Eurosaneamientos and Others* (C-532/15 and C-538/15, EU:C:2016:932, paragraph 28), and of 21 December 2016, *Associazione Italia Nostra Onlus* (C-444/15, EU:C:2016:978, paragraph 36).

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[24](#) See, in particular, judgment of 26 February 2015, *Matei* (C-143/13, EU:C:2015:127, paragraph 38), and order of 3 March 2016, *Euro Bank* (C-537/15, not published, EU:C:2016:143, paragraph 32).

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[25](#) See, in particular, order of the Court of 10 February 2015, *Liivimaa Lihaveis* (C-175/13, not published, EU:C:2015:80, paragraphs 17 to 21).

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[26](#) See, in particular, judgments of 24 October 2013, *Stoilov i Ko* (C-180/12, EU:C:2013:693, paragraphs 44 to 48), and of 3 July 2014, *Da Silva* (C-189/13, not published, EU:C:2014:2043, paragraphs 34 to 37).

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[27](#) See, in particular, judgments of 9 December 2010, *Fluxys* (C-241/09, EU:C:2010:753, paragraphs 32 to 34), of 27 June 2013, *Di Donna* (C-492/11, EU:C:2013:428, paragraphs 27 to 32), and order of 3 March 2016, *Euro Bank* (C-537/15, not published, EU:C:2016:143, paragraphs 34 to 36).

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[28](#) See judgment of 12 January 2010, *Petersen* (C-341/08, EU:C:2010:4, paragraphs 28 and 29).

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[29](#) I would point out once again that the request for a preliminary ruling was registered on 5 February 2016 and that, although Law No 159-A/2015 entered into force on 1 January 2016, it did not have retroactive effect and was initially only partially implemented (the reduction was 40% for salaries from 1 January 2016, 60% for salaries from 1 April 2016 and 80% for salaries from 1 July 2016), and was only fully implemented with effect from 1 October 2016 (see points 7 and 8 and 26 and 27 of this Opinion). The loss of income claimed by the persons represented by the applicant in the main proceedings had therefore not been fully compensated at the date of the referral to the Court.

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[30](#) The Portuguese Government has inferred from the case-law on Article 51 of the Charter that the Court clearly lacks jurisdiction to rule on the interpretation of both Article 19 TEU and Article 47 of the Charter. The Commission, for its part, has based the Court's lack of jurisdiction to answer the question referred for a preliminary ruling from the perspective of Article 19 TEU in particular on the fact that the referring court had failed to provide sufficient reasons in its order for reference as to the relationship between EU law and the national legislation applicable to the main proceedings (in my view, this complaint concerns rather the admissibility of the request for a preliminary ruling, which was examined in points 18 and seq. of this Opinion).

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<sup>31</sup> See points 44 et seq. of this Opinion.

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<sup>32</sup> Let me first point out that I will argue for a different interpretation of Article 19 TEU than that of the ASJP (see points 58 and seq. of this Opinion).

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<sup>33</sup> My italics.

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<sup>34</sup> In its judgment of 26 February 2013, Åkerberg Fransson (C-617/10, EU:C:2013:105, paragraphs 17 to 23), the Court held, in particular, that since '[t]he fundamental rights guaranteed by the Charter must be respected where national legislation falls within the scope of EU law, ... there cannot be cases in which EU law applies without those fundamental rights being applied. The applicability of EU law implies that the fundamental rights guaranteed by the Charter are applicable.' (paragraph 21). See also judgment of 16 May 2017, Berlioz Investment Fund (C-682/15, EU:C:2017:373, paragraph 49).

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<sup>35</sup> The Court has emphasized that the concept of 'implementing EU law' within the meaning of Article 51 of the Charter requires that there be some connection between the EU law act and the national measure concerned, which goes beyond the proximity of the matters concerned or the indirect influence of one matter on the other. In that regard, it must be determined, *inter alia*, whether it is intended to implement a provision of EU law, what the nature of that provision is and whether it does not pursue objectives other than those covered by EU law, even if that provision could indirectly affect that law, and whether there is a provision of EU law specific to that area or capable of affecting it (see, in particular, judgments of 10 July 2014, Julián Hernández and Others, C-198/13, EU:C:2014:2055, paragraph 34 et seq., and of 6 October 2016, Paoletti and Others, C-218/15, EU:C:2016:748, paragraph 14 et seq.).

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<sup>36</sup> See, in particular, judgment of 8 November 2016, Lesoochranárske zoskupenie VLK (C-243/15, EU:C:2016:838, paragraph 51 et seq.), as well as orders of 14 April 2016, Târÿia (C-328/15, not published, EU:C:2016:273, paragraphs 23 and 24), and of 13 December 2016, Semeraro (C-484/16, not published, EU:C:2016:952, paragraph 43).

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<sup>37</sup> Namely, legal provisions that implemented a salary cut in the public sector in order to limit government spending in Portugal.

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<sup>38</sup> See orders of 7 March 2013, Sindicato dos Bancários do Norte and Others (C-128/12, not published, EU:C:2013:149, paragraph 12), of 26 June 2014, Sindicato Nacional dos Profissionais de Seguros e Afins (C-264/12, EU:C:2014:2036, paragraphs 19 et seq.), and 21 October 2014, Sindicato Nacional dos Profissionais de Seguros e Afins (C-665/13, EU:C:2014:2327, paragraph 14).

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[39](#) That list includes most of the actions mentioned in point 4 of this Opinion.

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[40](#) The referring court refers to an 'Explanatory Memorandum to the 2011 State Budget' by the Minister for Finance and Public Administration, which refers to Decision 2010/288 of the Council of the European Union, without specifying whether that decision was taken into account in the legislative history of Law No 75/2014, which is at issue in the main proceedings.

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[41](#) See the Opinion of Advocate General Bot in Florescu and Others (C-258/14, EU:C:2016:995, points 61 et seq.).

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[42](#) That case concerned, in particular, the Memorandum of Understanding concluded on 23 June 2009 between Romania and the European Community, as well as Council Decision 2009/459/EC of 6 May 2009 providing Community medium-term financial assistance to Romania (OJ 2009 L 150, p. 8).

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[43](#) The explanatory memorandum to Bill No 239/XII emphasizes that the Portuguese Republic's membership of the European Union and its accession to the euro area oblige it to comply with strict budgetary conditions, which are set out in the TFEU, in the Protocol to that Treaty and in the regulations implementing the Stability and Growth Pact, as well as in the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union. That memorandum also mentions the possibility of imposing financial sanctions on Member States that exceed the budget deficit reference value. It also refers to the economic adjustment program agreed with the Commission, the ECB and the IMF. It is added that, since the budgetary discipline imposed by the permanent and unchangeable obligations to which the Portuguese Republic is bound, now that it is part of the European Union and the Eurozone, requires that the total wage bill in the public sector – as an essential part of State expenditure – be kept under control, the bill aims to establish the percentages and limits of the reduction in current salaries from 2011 onwards, while also determining its complete, gradual withdrawal in accordance with the available budgetary margin (see pp. 1-4).

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[44](#) I would like to emphasize that this first memorandum of understanding, which has subsequently been amended several times – as the Commission indicates in its observations – provided for a three-year program for the period 'until mid-2014' (see recital 2 of Council Implementing Decision 2011/344).

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[45](#) Under the fourth and fifth paragraphs of Article 288 TFEU.

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46 The Government refers in particular to judgment No 574 of 14 August 2014 of the Tribunal Constitucional (Constitutional Court, Portugal), delivered to that effect. That court nevertheless points out that certain specific measures may result from the implementing decisions of the Council in the context of the Union's program of economic and financial assistance to the Portuguese State.

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47 According to paragraph 1 of that Article 1, the financial assistance is to be made available to the Portuguese State for a period of three years and six weeks, starting from the first day after the entry into force of Implementing Decision 2011/344. Since the end of the economy reform programme, that State has been subject to a post-programme surveillance, as the Commission referred to it at the hearing (see on this subject: [https://ec.europa.eu/info/businessseconomy/euro/economicandfiscalpolicycoordination/eufinancialassistance/e/whicheucountrieshavereceivedassistance/financialassistanceportugal\\_en](https://ec.europa.eu/info/businessseconomy/euro/economicandfiscalpolicycoordination/eufinancialassistance/e/whicheucountrieshavereceivedassistance/financialassistanceportugal_en)).

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48 A clear distinction must be made between those measures, which are specifically imposed on a Member State, and the budgetary obligations generally imposed on Member States, and in particular on those belonging to the euro area, in particular under the regulations on the Stability and Growth Pact [see, *inter alia*, recitals 1 to 5 and Article 1 of Council Regulation (EU) No 1177/2011 of 8 November 2011 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ 2011 L 306, p. 33)].

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49 See Article 3(8)(h)(i) and (ii) of Implementing Decision 2011/344 as amended by Article 1 of Implementing Decision 2014/234, as well as the fourth indent of recital 11 thereof, which states that '[t]he Public Expenditure Review and the 2014 consolidation strategy are underpinned by a number of key reforms in the public administration', including 'a revision of the salary scale and the development of a single salary supplement scale'.

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50 I consider that the adoption by the Portuguese State of Law No 75/2014 was not an 'autonomous initiative going beyond the discretion conferred and limited by EU law', as the Commission returned, but an act aimed at complying with the specific economic obligations it had assumed in order to receive the financial assistance granted to it.

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51 The ASJP also mentions two evaluation reports on the European judicial systems by the Commission européenne pour l'efficacité de la justice (CEPEJ) (European Commission for the Efficiency of Justice) of the Council of Europe, which can be consulted at the following web address: [http://www.coe.int/t/dghl/cooperation/cepej/series/default\\_fr.asp](http://www.coe.int/t/dghl/cooperation/cepej/series/default_fr.asp).

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52 The European Charter on the Statute for Judges, adopted at a meeting on 8-10 July 1998, provides in Article 6, entitled 'Remuneration and social security': '6.1. Judges exercising judicial functions on a professional basis shall be entitled to remuneration sufficient to enable them to withstand pressures designed to influence their decisions and, more generally, their judicial action by undermining their independence and impartiality.

to touch.

6.2. The remuneration may vary according to seniority, the nature of the position to which he or she is professionally appointed or the importance of the tasks assigned, which shall be assessed on the basis of transparent criteria. [...]"

The article-by-article commentary to this Charter provides useful information on its content (available at the following web address: <https://wcd.coe.int/ViewDoc.jsp?p=&id=1766477&Site=COE&direct=true#>).

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I recall that the question referred for a preliminary ruling refers not only to those articles but also to 'the case-law of the Court of Justice', from which the principle of judicial independence also flows, but that the order for reference does not cite any decision of the Court to that effect.

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Although it cannot be ruled out that some considerations relating to Article 47 of the Charter may also provide clarification for the interpretation of Article 19 TEU, and vice versa (see, in particular, Opinion of Advocate General Wathelet in *Berlioz Investment Fund*, C-682/15, EU:C:2017:2, points 38 and 67).

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And of course, provided that the request for a preliminary ruling is declared admissible.

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My italics.

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Article 19, paragraph 2, TEU describes the composition of the Court and the status of its members, while paragraph 3 defines its areas of jurisdiction in terms of the various remedies available to it.

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See, in particular, judgment of 19 July 2016, *H v Council and Commission* (C-455/14 P, EU:C:2016:569, paragraphs 39 and 40) concerning derogations in the field of the common foreign and security policy.

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See, in particular, judgments of 3 October 2013, *Inuit Tapiriit Kanatami and Others v Parliament and Council* (C-583/11 P, EU:C:2013:625, paragraphs 100 and 101), and of 28 April 2015, *T & L Sugars and Sidul Açúcares v Commission* (C-456/13 P, EU:C:2015:284, paragraphs 49 and 50).

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<sup>60</sup> See, in particular, the Opinion of Advocate General Kokott in *Inuit Tapiriit Kanatami and Others v Parliament and Council* (C-583/11 P, EU:C:2013:21, points 34, 116 and 121); judgments of 3 October 2013, *Inuit Tapiriit Kanatami and Others v Parliament and Council* (C-583/11 P, EU:C:2013:625, paragraphs 90 and 99), and of 28 April 2015, *T & L Sugars and Sidul Açúcares v Commission* (C-456/13 P, EU:C:2015:284, paragraph 45), and order of 24 January 2017, *Beul v Parliament and Council* (C-53/16 P, not published, EU:C:2017:66, paragraphs 18 and 19).

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<sup>61</sup> See judgment of 28 April 2015, T & L Sugars and Sidul Açúcares v Commission (C-456/13 P, EU:C:2015:284, paragraph 50). See also judgment of 16 May 2017, Berlioz Investment Fund (C-682/15, EU:C:2017:373, paragraph 44).

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<sup>62</sup> See points 69 et seq. of this Opinion.

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<sup>63</sup> See in particular judgment of 3 October 2013, Inuit Tapiriit Kanatami and Others v Parliament and Council (C-583/11 P, EU:C:2013:625, paragraph 102 et seq.).

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<sup>64</sup> The Commission has not, either in its written or in its oral observations – or in the alternative – taken a clear position on the interpretation of the second subparagraph of Article 19(1) TEU.

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<sup>65</sup> The Portuguese Government rightly emphasizes that the principle of effective judicial protection, which aims to guarantee the existence of an appropriate procedure for any individual right or interest protected by law to enforce it in court, must be seen in a completely different perspective than the principle of judicial independence, which guarantees the impartiality of the judicial authority in the face of extrajudicial and unlawful interference in the judicial process

procedure.

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<sup>66</sup> The title of Article 47 of the Charter distinguishes between the '[r]ight to an effective remedy', to which the first paragraph of that article is devoted, and the '[r]ight to an impartial trial', which implies the right to an 'independent tribunal', as stated in the second paragraph. See also, to that effect, judgment of 8 November 2016, Lesoochranárske zoskupenie VLK (C-243/15, EU:C:2016:838, paragraph 54 et seq.).

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<sup>67</sup> Convention signed in Rome on November 4, 1950 (hereinafter: 'ECHR').

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<sup>68</sup> The same distinction is made, moreover, in the Constitution of the Portuguese Republic: 'Access to justice and effective judicial protection' is provided for in Article 20 thereof, while the independence of the judiciary is provided for in Article 203 thereof (cited in footnote 14 of this Opinion).

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<sup>69</sup> See in particular the judgment of the ECtHR of 26 October 2000 (Kudýa v. Poland, CE:ECHR:2000:1026JUD003021096, paragraphs 150-156).

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70 See points 69 et seq. of this Opinion.

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71 For the specific consequences of the principle of judicial independence in the main proceedings, see also points 77 et seq. of this Opinion.

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72 However, the fact that those measures were only temporary in nature (Law No 75/2014 entered into force as from October 2014, whereas the salary reduction was repealed in its entirety by Law No 159-A/2015 as of 1 October 2016), as the Portuguese Government again, does not seem to me to be decisive, since any infringement of a general principle of EU law, even if temporary, would be inherently contradictory to EU law, although the seriousness of the infringement would clearly be less than in the case of a permanent infringement.

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73 See the long list of persons, including in particular both sitting and standing magistrates, in Article 2, paragraph 9, points (a) ('President of the Republic') to (t) ('reserve staff, staff on early retirement or staff at the disposal of the Court [...]') of Law No 75/2014, cited in point 6 of this Opinion.

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74 See Opinion of Advocate General Wathelet in Berlioz Investment Fund (C-682/15, EU:C:2017:2, points 34 et seq.). See also judgment of 16 May 2017, Berlioz Investment Fund (C-682/15, EU:C:2017:373, point 54).

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75 Namely "Right to an effective remedy and to a fair trial".

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76 According to the Explanations relating to the Charter of Fundamental Rights (OJ 2007 C 303, p. 17 et seq.), 'the first paragraph [of Article 47 of the Charter] is based on Article 13 of the ECHR' and 'the second paragraph [corresponds] to Article 6(1) of the ECHR' (see 'Explanation on Article 47', first and third paragraphs).

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77 The fact that reference must be made to Article 47 of the Charter only if the situation at issue is subject to EU law (see judgment of 16 May 2017, Berlioz Investment Fund (C-682/15, EU:C:2017:373, paragraph 54 and the case-law cited) does not preclude the possibility of interpreting that article in the light of the case-law of the ECtHR. See, in particular, judgment of 15 February 2016, N. (C-601/15 PPU, EU:C:2016:84, paragraph 45 et seq.), as well as the examples from the case-law cited by Lebrun, G., 'De l'utilité de l'article 47 de la Charte des droits fondamentaux de l'Union européenne', *Revue trimestrielle des droits de l'homme*, 2016, No. 106, especially pp. 439-445.

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78 See Explanations to the Charter "Explanation on Article 47", second and fourth paragraphs, as well as "Explanation on Article 52", where "Article 47, [second and third paragraphs]" is cited as one of the

"[a]rticles the content of which is the same as that of the corresponding articles of the ECHR, but the scope of which is wider".

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**79** In his Opinion in Berlioz Investment Fund (C-682/15, EU:C:2017:2, point 37), Advocate General Wathelet emphasizes that 'Article 47 of the Charter has a broader material scope.

First of all, this provision applies where "the rights and freedoms guaranteed by Union law have been violated" (whether or not they are included in the Charter), whereas the application of Article 13 ECHR requires a violation of the "rights and freedoms set out in [the ECHR]". On the other hand, Article 6(1) ECHR limits the right to a fair trial to situations involving the determination of civil rights and

obligations or the determination of the merits of a criminal charge. No such limitation is found in the second paragraph of Article 47 of the Charter" (see also points 61 et seq. of that Opinion).

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**80** In the Explanations to the Charter, the 'Explanation on Article 52' clarifies that in paragraph 3 of Article 52 '[t]he reference to the ECHR applies both to the Convention and to the Protocols annexed to it. The content and scope of the rights guaranteed are determined not only by the text of those instruments but also by the case-law of the [ECtHR] and of the Court of Justice of the European Union. The last sentence of [paragraph 3] is intended to enable the Union to ensure more extensive protection. In any event, the level of protection guaranteed

by the Charter may never be lower than that guaranteed by the ECHR.'

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**81** For the sake of clarity, I would point out that the right of access to an independent tribunal within the meaning of Article 47 of the Charter also applies to administrative proceedings, such as those in the main proceedings (see, in particular, Dutheil de la Rochère, J., 'Charte des droits foundation of the European Union', *Jurisclasseur Europe*, issue 160, 2010, paragraph 87). As regards proceedings concerning magistrates from the perspective of Article 6(1) ECHR, see ECtHR judgment of 23 June 2016, Baka v. Hungary (CE:ECHR:2016:0623JUD002026112, paragraphs 102 et seq.).

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**82** On the 'right to an effective remedy' referred to in Article 13 ECHR, see in particular the judgment of the ECtHR of 26 October 2000 (Kud  a v. Poland, CE:ECHR:2000:1026JUD003021096, paragraph 157).

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**83** See the wording of the question referred for a preliminary ruling and the observations of the ASJP, which states that the decisions on the contested reductions were taken and imposed by the executive and legislative authorities without taking into account the fact that the remuneration of judges contributes to their functional independence. On the other hand, it does not dispute that the clients of the applicant in the main proceedings were actually able to make use of the remedies available to them in Portugal: the referring court is the Supremo Tribunal Administrativo.

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**84** The conditions of independence and impartiality imposed on national courts are certainly interrelated and are sometimes examined together (see, in particular, the judgment ECHR of 21 June 2016, Ramos Nunes de Carvalho e S   v Portugal, CE:ECHR:2016:0621JUD005539113,

point 74). Nevertheless, they remain different concepts, so I will limit my explanation – taking into account the circumstances of the main proceedings – to the first.

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85 The manner in which the members of the court are appointed, the duration of their term of office or their irremovability are taken into account, *inter alia* (see, in particular, ECtHR judgment of 18 July 2013, *Maktouf and Damjanović v. Bosnia and Herzegovina*, CE:ECHR:2013:0718JUD000231208, paragraph 49).

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86 This first aspect requires that every judge must be free from directives or pressure from within the judiciary itself, in particular from colleagues to whom he is administratively or hierarchically subordinate (see, in particular, ECtHR judgment of 6 October 2011, *Agrokompleks v. Ukraine*, CE:ECHR:2011:1006JUD002346503, paragraph 137).

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87 See, in particular, ECtHR judgment of 18 July 2013, *Maktouf and Damjanović v. Bosnia and Herzegovina* (CE:ECHR:2013:0718JUD000231208, paragraph 49).

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88 See, in particular, as regards the legislative branch, ECtHR judgment of 3 September 2013, *MC and Others v. Italy* (CE:ECHR:2013:0903JUD000537611, paragraph 59), and as regards the executive branch, ECtHR judgment of 21 June 2016, *Ramos Nunes de Carvalho e Sá v. Portugal* (CE:ECHR:2016:0621JUD005539113, paragraphs 70 and 75).

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89 See, in particular, judgment of 16 February 2017, *Margarit Panicello* (C-503/15, EU:C:2017:126, paragraph 37 et seq. and the case-law cited).

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90 Judgment of the ECtHR of 26 April 2016, *Zoubko and Others v. Ukraine* (CE:ECHR:2006:0426JUD000395504, paragraphs 67 and 68), concerning the alleged infringement of Article 1 of the Additional Protocol to the ECHR, which states: 'Every natural or legal person is entitled to the peaceful enjoyment of his possessions.'

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91 These provisions are cited in footnote 52 of this Opinion.

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92 See Recommendation R(94)12 of the Committee of Ministers of the Council of Europe to member states on 'the independence, competence and role of judges', adopted on 13 October 1994, Principle III, paragraph 1(b), as well as Recommendation CM/Rec(2010)12, 'Judges: independence, competence and responsibility', adopted by the Committee of Ministers of the Council of Europe on 17 November 2010, and the Annex thereto, paragraphs 53-55.

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<sup>93</sup> On the latter aspect, see also Opinion No. 1 (2001) of the Consultative Council of European Judges (CCJE) for the attention of the Committee of Ministers of the Council of Europe on the rules on the independence and irremovability of judges, of 23 November 2001, point 62.

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Also according to the 'Report on the Independence of the Judicial System – Part I: The Independence of Judges' of the European Commission for Democracy through Law of the Council of Europe (Venice Commission), of 16 March 2010, '[w]hen determining remuneration, account must be taken of the social conditions in the country' (point 46).

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In this regard, the Portuguese Government points out that the adoption of the contested measures was a fundamental choice made by the competent bodies of the Portuguese State, justified by the objective of eliminating the excessive public deficit and by the need for that State to comply with the international obligations arising from the financial assistance received under Union provisions.

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See point 68 and footnote 73 of this Opinion.

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<sup>97</sup> The Government pointed out that the contested measures were intended, firstly, ultimately to promote the general interest of the community, as defined by the Portuguese State as legislature in accordance with the national Constitution, and, secondly, to ensure a fair and equitable distribution of the burdens entailed by those measures and borne by all officials of State bodies, public sector employees and other public servants.



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OPINION OF THE ADVOCATE GENERAL

H. SAUGMANDSGAARD ØE

from May 18, 2017 [\(1\)](#)

NLCase C-64/16

Associação Sindical dos Juízes Portugueses

in return for

Tribunal de Contas

[request for a preliminary ruling from the Supremo Tribunal Administrativo (Supreme Administrative Court, Portugal)]

"Reference for a preliminary ruling – Second subparagraph of Article 19(1) TEU – Effective judicial protection –  
Charter of Fundamental Rights of the European Union – Article 47 – Independence of the judiciary  
– National scheme providing for reduction of salaries in the public sector –  
"Austerity measures"

**I. Introduction**

1. The request for a preliminary ruling from the Supremo Tribunal Administrativo (Supreme Administrative Court, Portugal) has been made in proceedings between the Associação Sindical dos Juízes Portugueses (Trade Union of Portuguese Judges; 'ASJP') and the Tribunal de Contas (Court of Auditors, Portugal) concerning the reduction in the salaries of the members of that court, which was the result of a law temporarily reducing salaries in the public sector in order to mitigate the effects of the economic crisis in Portugal.

2. The referring court asks whether such a national provision is compatible with the principle of judicial independence, as it follows, in its view, from both the second subparagraph of Article 19(1) TEU(2) as Article 47 of the Charter of Fundamental Rights of the European Union (hereinafter: 'the Charter')(3), and from the case-law of the Court of Justice.

3. Before setting out the substantive reasons why I consider that the preliminary question

If the answer to the question is in the negative, I will examine the complaints raised in this case concerning the inadmissibility of the reference for a preliminary ruling and the manifest lack of jurisdiction of this Court.

## **II. Applicable provisions**

### ***A. Union law***

4. The main acts of EU law referred to in this case which aimed to reduce the excessive deficit of the Portuguese Republic and to grant it financial assistance are the following:

- Council Decision 2010/288/EU of 2 December 2009 concerning the existence of a excessive deficit in Portugal(4);
- Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilization mechanism(5);
- Agreement on an economic and financial adjustment program, better known as the "Memorandum of Understanding", signed on 17 May 2011 by the the Portuguese Government, the European Commission, the International Monetary Fund (hereinafter: 'IMF') and the European Central Bank (hereinafter: 'ECB')(6);
- Council Implementing Decision 2011/344/EU of 30 May 2011 on granting Union financial assistance to Portugal(7), as amended – in particular – by Council Implementing Decision 2012/409/EU of 10 July 2012(8), and by Council Implementing Decision 2014/234/EU of 23 April 2014(9); and
- the Council Recommendation of 18 June 2013 aimed at ending excessive government deficit in Portugal(10).

### ***B. Portuguese law***

#### **1. Law No. 75/2014**

5. Law No 75/2014, establishing the temporary salary reduction mechanism and the conditions for its reversal (Law No 75/2014 establishing the temporary salary reduction scheme and the conditions for its repeal) of 12 September 2014(11) (hereinafter 'Law No 75/2014') aims, according to Article 1(1) thereof, to determine the temporary application of the salary reduction mechanism in the public sector and to establish the principles to be observed in the event of its repeal.

6. Article 2 of that Act, entitled "Salary reduction", reads as follows:

"1 – The total gross monthly salary of the persons referred to in paragraph 9, if it exceeds EUR 1,500, regardless of whether such persons are performing their duties on that date or, for whatever reason, take up their duties after that date, reduced by:

- a) 3.5% of the total amount of salaries exceeding EUR 1,500 and less than EUR 2,000 amounts;
- (b) 3.5% of the amount of EUR 2 000, increased by 16% of the value of the total salary above EUR 2 000, so that the overall reduction is between 3.5% and 10% for salaries equal to or above EUR 2,000 and equal to or below EUR 4,165;
- c) 10% of the total value for salaries exceeding EUR 4,165.

[...]

9 – This Act applies to the officials and persons listed below:

- a) the President of the Republic;
- (b) the President of the Assembleia da República [Parliament of the Republic];
- c) the Prime Minister;
- d) the members of the Assembleia da República;
- e) the members of the government;
- f) the judges of the Tribunal Constitucional [Constitutional Court], the Tribunal de Contas [Court of Auditors] and the Attorney General of the Republic, sitting and standing magistrates of courts, judges and magistrates of administrative courts, tax courts and cantonal courts;
- (g) the representatives of the Republic to the autonomous regions;
- (h) the members of the assembleias legislativas das regiões autónomas [parliaments of the autonomous regions];
- (i) the members of the regional governments;
- j) the local elected representatives;
- (k) members of other constitutional bodies not mentioned in the preceding paragraphs and members of governing bodies of autonomous administrative authorities, in particular those exercising their functions in conjunction with the Assembleia da República;
- l) the members and employees of cabinets, administrative bodies and support services of the officials and bodies referred to in the preceding paragraphs, of the President and Vice-President of the Superior Council of the Judiciary, of the President and Vice-President of the Superior Council of the Administrative and Fiscal Courts, of the President of the Supremo Tribunal de Justiça [Supreme Court], of the President and the Magistrates of the Tribunal Constitucional [Constitutional Court], of the President of the Supremo Tribunal Administrativo, of the President of the Tribunal de Contas [Court of Auditors], of the Provedor de Justiça [Ombudsman] and of the Attorney General of the Republic;
- (m) the military personnel of the Forças Armadas e da Guarda Nacional Republicana (GNR) [Armed Forces and National Republican Guard], including military judges and advisors to the Public Prosecutor's Office, as well as other military forces;
- n) the management staff of the departments of the staff of the President and of the Assembleia da República, or other support services of constitutional bodies, of other departments and bodies of the central, regional or local public administration, and staff performing similar functions for remuneration;
- (o) managers in public service or persons treated as such, members of executive, deliberative, advisory or supervisory bodies or other statutory bodies of public institutions subject to general or special regulations, of public law legal persons whose independence derives from the fact that they are active in the field of regulation, supervision or control, of public undertakings whose share capital is wholly or mainly owned by the public authorities, of public undertakings whose operation has been awarded to a third party, of

institutions from the regional and municipal business sector, from public foundations and from other public institutions;

(p) employees holding public office in the staff of the President and of the Assembleia da República or in other constitutional bodies, as well as those holding public office in any public law employment relationship, including employees whose legal status is being reclassified or who are on extraordinary leave;

q) employees of public institutions subject to special arrangements and of public law legal persons whose independence derives from their activities in the field of regulation, supervision or control, including [the employees] of independent regulatory authorities;

(r) employees of public undertakings whose share capital is wholly or mainly owned by the government, of public undertakings and institutions of the regional and local business sector;

s) employees and managers of public and private law public foundations and of public institutions not covered by the preceding paragraphs;

t) reserve personnel, early-retirement personnel or personnel at the disposal of the Member States who are not on active duty and who are eligible for financial benefits linked to the salary of personnel on active duty.

[...]

15 – The provisions of this Article shall be binding and shall prevail over any provisions to the contrary, even if they are special or exceptional provisions, and over instruments of collective labor regulations and employment contracts, which may not override or amend these provisions.

[...]."

## **2. Act No. 159-A/2015**

7. Law No. 159-A/2015, Extinção da redução remuneratória na Administração Pública (Law No. 159-A/2015 repealing the salary reduction in the public sector) of 30 December 2015(12) (hereinafter: 'Law No 159-A/2015') has gradually repeated the discount measures of Law No 75/2014 with effect from 1 January 2016.

8. Article 2 of that law provides that "[t]he salary reduction of Law No. 75/[2014] [...] shall be withdrawn in phases in three-monthly steps during 2016 as follows:

a) withdrawal of 40% for salaries paid from 1 January 2016;

b) withdrawal of 60% for salaries paid from April 1, 2016;

c) withdrawal of 80% for salaries paid from 1 July 2016;

d) complete withdrawal of the reduction in salaries paid from 1 October 2016."

## **III. Main proceedings, preliminary question and procedure before the Court**

9. The ASJP, on behalf of some of its members, judges of the Tribunal de Contas (Court of Auditors), a special administrative appeal is filed seeking annulment of the

administrative decisions taken on the basis of Article 2 of Law No 75/2014, which introduced a temporary reduction in salary for the persons listed in that article who work in the Portuguese public sector, including magistrates(13). The judges represented by that association also request reimbursement of the amounts deducted from their salaries with effect from October 2014, plus statutory default interest, and a declaration that they are entitled to payment of their salaries without that reduction.

**10.** In support of this action, the ASJP submits that the contested salary reduction measures infringe the 'principle of judicial independence', which is laid down in Article 203 of the Portuguese Constitution(14) and enshrined in both Article 19(1) TEU and Article 47 of the Charter.

**11.** The Supremo Tribunal Administrativo states in its order for reference that, since the expenditure control measures, embodied in the salary reduction at issue in the main proceedings, were taken in the context of reducing the excessive deficit in Portugal – regulated and supervised by the institutions of the European Union – followed by financial assistance – granted and governed by legal acts of the Union, there can be little doubt that such measures were taken within the framework of Union law or are at least of European origin.

**12.** He goes on to point out that the discretionary power which the Portuguese State enjoys, in consultation with the institutions of the Union, in giving concrete form to its budgetary policy intentions does not, however, exempt it from the obligation imposed on it under Article 51(1) of the Charter to comply with the general principles of EU law, including that of judicial independence.

**13.** In this regard, he notes that the effective protection of the Union's legal order the rights arising under the second subparagraph of Article 19(1) TEU are guaranteed in the first instance by the national courts and that citizens of the Union have the right, under Article 47 of the Charter, to the independence and impartiality of those courts. According to the referring court, everything indicates that the independence of the courts and tribunals is also guaranteed by guarantees as to the legal status of their members, in particular as regards working conditions, which is why the unilateral and continuous reduction in the salaries of the clients of the applicant the main proceedings have been contested.

**14.** Consequently, by decision of 7 January 2016, received at the Court on 5 February 2016, the Supremo Tribunal Administrativo decided to stay the proceedings and to refer the following question for a preliminary ruling:

'In view of the imperative requirement to eliminate the excessive budget deficit and the financial assistance provided for in provisions [of EU law], must the principle of judicial independence – as it follows from the second subparagraph of Article 19(1) TEU, Article 47 of the [Charter] and the case-law of the Court of Justice – be interpreted as precluding the salary reduction measures to which magistrates in Portugal are subject, on the ground that they have been imposed unilaterally and continuously by other public authorities/bodies, as is apparent from Article 2 of Law No 75/2014]?'

**15.** Written observations were submitted by the ASJP, the Portuguese Government and the European Commission. Representatives of the Portuguese Government and the European Commission were present at the hearing on 13 February 2017.

#### **IV. Analysis**

**16.** Before examining the merits of the reference for a preliminary ruling, I would like to draw attention to the fact that two objections have been raised in this case: one objection that the reference is inadmissible and one objection that the Court lacks jurisdiction. As regards the order in which the two objections should be dealt with,

I note that the jurisdiction of the Court should, in principle, be examined first. Nevertheless, it seems to me appropriate in this Opinion to deal first with the admissibility of the reference for a preliminary ruling, since in the present case it raises less complex questions than the examination of the jurisdiction of the Court, and since that examination is more closely linked to the provisions whose interpretation is sought, that is to say to the substantive analysis, which follows immediately thereafter.

#### ***A. Admissibility of the request for a preliminary ruling***

17. The Portuguese Government and the Commission have raised two types of complaint which are capable of affecting the admissibility of this reference for a preliminary ruling. The first concerns the imprecise reasoning of the order for reference, the second the fact that the national measures contested in the main proceedings had already been withdrawn at the time the case was brought before the Court.

##### ***1. Gaps in the referral decision***

18. In its written and oral observations, the Commission first stated that the order for reference is defective, in particular since it neither clearly indicates which case-law of the Court is relevant for the interpretation of the provisions of EU law referred to in the question referred for a preliminary ruling nor the reasons why it selected those provisions<sup>(15)</sup>, and that it follows that the Court must declare that it has no jurisdiction to answer that question.

19. However, I am of the opinion that the complaints thus raised against the content of the order for reference may affect the admissibility of the reference for a preliminary ruling rather than the jurisdiction of the Court.<sup>(16)</sup>

20. It is indeed essential, as the Commission points out, that the referring court formulates its request clearly and precisely, since that document constitutes the sole basis for the proceedings before the Court, both for the Court itself and for the participants in the proceedings.<sup>(17)</sup> The substantive requirements which the request for a preliminary ruling must satisfy are explicitly set out in Article 94 of the Rules of Procedure of the Court of Justice, of which the referring court is expected, in the context of the cooperation established by Article 267 TFEU, to be aware and which it must scrupulously observe. It is particularly necessary for the national courts to set out, in the order for reference itself, the legal context of the main proceedings and to make clear not only the reasons for choosing the provisions of EU law whose interpretation is sought but also the relationship between those provisions and the national legislation applicable to the dispute.<sup>(18)</sup>

21. In the present case, the reasoning of the decision to refer is particularly short, particularly from two important perspectives, so that one may wonder whether the request for a preliminary ruling it contains is admissible.

22. First, as regards the relationship between the contested national measures and the provisions whose interpretation is sought in the question referred for a preliminary ruling – namely the second subparagraph of Article 19(1) TEU and Article 47 of the Charter – the referring court is not very clear, since it merely indicates that, in its view, those provisions give rise to a general principle of judicial independence which the measures in question may have infringed,<sup>(19)</sup> without providing further details.

23. Secondly, the question referred for a preliminary ruling refers to the 'case-law of the Court of Justice' from which this principle of judicial independence is also said to derive, but the grounds for the order for reference do not cite any decision of that Court to that effect. The referring court merely relies on the existence of 'numerous [...] judgments' of the Court concerning the concept of 'court or tribunal' within the meaning of Article 267 TFEU in which the independence of the body which had requested a preliminary ruling was taken into account, without however also

but to mention one of those – according to him relevant – judgments. In the absence of adequate information, I do not think it is necessary to rule on this aspect of the question submitted to the Court.

24. Notwithstanding the gaps in the order for reference noted above, it seems to me, in the light of all the information obtained in that order and during the exchange of views, that the Court is nevertheless sufficiently informed to be able to rule on the possible interpretation of Article 19 TEU and Article 47 of the Charter and, therefore, to be able to give a useful answer to the question referred.(20)

## ***2. Withdrawal of the contested measure before the Court***

25. In its written observations, the Portuguese Government argued that the request for a preliminary ruling was inadmissible because, at the time it was brought before the Court, it had become devoid of purpose due to changes in Portuguese national legislation which, in the course of 2016, led in turn to the full restoration of the salary rights at issue in the main proceedings. That Government concluded from this that the Court no longer needed to answer the question referred to it, since it had become hypothetical.(21)

26. At the hearing, the Government confirmed that the salary reduction in the public sector resulting from Law No 75/2014 was phased in by Law No 159-A/2015 between 1 January and 1 October 2016(22) in its entirety – but without retroactive effect. It follows that the loss which the persons represented by the applicant in the main proceedings claim to have suffered as a result of the salary reduction with effect from October 2014 continued into the past and until 1 October 2016, on which date the salaries of all persons employed in the public sector to whom that reduction had applied were restored to their previous level.

27. The Portuguese Government, however, argued that the question referred for a preliminary ruling concerning the alleged infringement of judicial independence caused by Law No 75/2014, a potential problem that had already been resolved at the time of the referral to the Court on 5 February 2016 by the repeal of the effects of that law by Law No 159-A/2015, adopted on 30 December 2015 and entering into force on 1 January 2016. It added that the effects of Law No 75/2014 prior to its repeal, as relied on by the ASJP, were exclusively of a property-law nature and that, in its view, that problem did not form part of the subject-matter of the request for a preliminary ruling.

28. In this regard, I would like to point out that there is a presumption of relevance to the questions concerning the interpretation of EU law given by the national court within the factual and legal context which it is its own responsibility to establish, the correctness of which is not for the Court to verify. The Court may reject a request from a national court only where it is clear that the interpretation of EU law sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical and where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it. (23)

29. According to settled case-law, it is clear from both the wording and the scheme of Article 267 TFEU that the preliminary ruling procedure presupposes that a dispute is actually pending before the national court, in the context of which it must give a ruling taking into account the preliminary ruling. (24) Therefore, where the main proceedings had already ceased to have a purpose at the time when the referring court referred the case to the Court, the Court declared the request for a preliminary ruling inadmissible, (25) whereas a declaration that there is no need to adjudicate is in principle reserved for cases in which the relevant incident or event occurred in the course of the proceedings before the Court. (26)

30. In particular, the Court shall not rule on a request for a preliminary ruling if the national provisions initially applicable to the main proceedings have been repealed or not

longer apply because of their unconstitutionality.(27) However, the Court has held that the fact that an amendment to the national legislation concerned was imminent does not affect the admissibility of the request for a preliminary ruling if it is apparent from the information contained in the request that an answer from the Court to the questions referred will determine the outcome of the main proceedings.(28)

31.

In the present case, I consider that it is not clear from the information submitted to the Court that the interpretation of EU law sought is unrelated to the subject matter of the main proceedings or that the issue raised is hypothetical in nature.

32. Contrary to what the Portuguese Government stated, the dispute before the referring court does not concern judicial independence as such, since the principle of judicial independence was invoked solely as a plea in support of the application for annulment of the allegedly unlawful administrative decisions reducing the salaries of the persons represented by ASJP and for reimbursement of the amounts wrongly withheld from their salaries under Law No 75/2014.

33. Furthermore, since Law No 159-A/2015, which amended Law No 75/2014, had not, at the date on which the request for a ruling preliminary was lodged, (29) reversed the contested salary reductions either in the past or immediately, in their entirety, it appears that, as at that date, there was still an obligation on the referring court – which considered it possible that the national legislation at issue interfered with EU law – to rule on the subject-matter of the action and, consequently, a need for the Court to answer the question referred for a preliminary ruling.

34. In view of the foregoing, I consider that this request for a preliminary ruling is admissible.

#### ***B. Jurisdiction of the Court***

35. In support of its action in the main proceedings, the applicant in the main proceedings alleges that the contested administrative decisions are unlawful, on the ground that the national legislation implementing them, namely Law No 75/2014, is not consistent with EU law, since it infringes the 'principle of judicial independence' as it follows, according to that party, from both the second subparagraph of Article 19(1) TEU and Article 47 of the Charter. The referring court adopts this common approach to both provisions not only in the wording of the question referred for a preliminary ruling but also in the grounds for that question.

36. In order to rule on the objections of lack of jurisdiction raised by the Portuguese Government and the Commission, I consider that an independent analysis of the second subparagraph of Article 19(1) TEU is necessary, separate from that of Article 47 of the Charter, since the criteria for the applicability of those provisions and, therefore, for the question whether the Court has jurisdiction to interpret them, are, in my view, different.

##### ***1. Article 19, paragraph 1, second subparagraph, TEU***

37. In their written and oral observations, the Portuguese Government and the Commission have not explicitly stated the reasons why, in their view, the Court would not have jurisdiction to rule on the separate interpretation of Article 19 TEU. In fact, they argued at length that the national legislation at issue in the main proceedings does not constitute a measure implementing Union law within the meaning of Article 51 of the Charter, from which, in their view, it follows that there is no need to interpret Article 47 of the Charter, and it seems to me that they have proposed similar reasoning in relation to Article 19 TEU.(30)

38. However, I consider that an extensive interpretation – or even an interpretation by analogy – is not possible in this regard, given the specific wording of Article 19 TEU, which differs from that of Article 51(1) of the Charter, to which provision I shall return later(31), but which I have already referred to

point out that it limits the scope of the Charter to measures of the Member States implementing provisions of Union law.

39. Without prejudging the substantive analysis, which will examine the content and scope of Article 19 TEU(32) will be determined in more detail, it must now be determined whether the Court has jurisdiction in the present case to interpret that article by reason of the possible applicability – in a context such as that in the main proceedings – of its provisions and, in particular, of the second subparagraph of paragraph 1 thereof, to which the question referred for a preliminary ruling refers.

40. Under that second paragraph, 'Member States shall provide remedies sufficient *to ensure effective legal protection in the fields covered by Union law*'.(33) That last phrase, which is characteristic of that provision, is, in my view, decisive for assessing whether the Court has jurisdiction to interpret it in the present case.

41. In my view, the effective judicial protection with access to adequate remedies to which individuals must be able to rely under this paragraph is required of the Member States when national courts exercise their judicial activity in areas covered by EU law, that is to say, as European courts. I consider that this may be the case for courts dealing with the system at issue in the main proceedings, since they may be required to decide disputes to which EU law applies and for which the possibility of having recourse to such remedies must be guaranteed.

42. That finding is, in my view, sufficient to hold that the Court has jurisdiction in the present case to interpret the second subparagraph of Article 19(1) TEU. That jurisdiction must now be demonstrated for the interpretation of Article 47 of the Charter, as requested, since the criteria for the application of that plea are not formulated in the same way as those for the application of Article 19 TEU, even if those different criteria may lead to the same result.

## **2. Article 47 of the Charter**

43. According to settled case-law, the fundamental rights guaranteed within the EU legal order, including the 'right to an effective remedy and to a fair trial', enshrined in Article 47 of the Charter, are applicable in all situations governed by EU law, but not outside them. (34) Thus, Article 51(1) of the Charter provides that the provisions of the Charter are addressed to the Member States only 'when they are implementing Union law', in accordance with the Court's case-law on that concept. (35) Article 6(1) TEU, which confers binding force on the Charter, provides, like Article 51(2) of the Charter, that the provisions of the Charter shall in no way extend the competences of the Union as defined in the Treaties. Consequently, where a legal situation does not fall within the scope of EU law, the court has no jurisdiction to hear it and any provisions of the Charter which may be relied upon cannot in themselves constitute a basis for such jurisdiction.(36)

44. In the present case, both the Portuguese Government and the Commission argue that the requirements are not met the conditions under which it could be concluded that the adoption and implementation by the Portuguese Republic of the measures pursuant to Article 2 of Law No 75/2014 implements EU law within the meaning of Article 51 of the Charter and that, therefore, the Court manifestly lacks jurisdiction to interpret Article 47 of the Charter.

45. I recall that the Court apparently declared itself incompetent to answer the substantive question to previous requests for a preliminary ruling, also submitted by Portuguese courts, on the ground that the order for reference did not contain any specific information allowing it to be assumed that the national measures at issue in those cases, which are comparable to those at issue in the main proceedings(37), were intended to implement EU law within the meaning of the aforementioned Article 51(38).

<sup>1</sup> In like in those cases, however, in this case there does not appear to be any obvious lack of jurisdiction, since

the referring court has provided more explicit indications, despite brief ones, which suggest that the present case involves the implementation of EU law.

46. The referring court explains that the salary reduction measures referred to in Article 2 of Law No 75/2014 are justified by compelling reasons of budgetary consolidation; it then lists a series of measures of EU law concerning the excessive public deficit of the Portuguese State and the financial assistance granted to that Member State. (39) Nevertheless, it is not easy to identify the reasons why that court considers that there is a direct link between the measures at issue in the main proceedings and one or other provision of EU law, since it does not elaborate on this point. (40)

47. Thus, the referring court does not specify the legal framework – as regards the provisions of EU law applicable at the time – within which the contested national measures were adopted. In particular, it does not draw a clear distinction, as the Portuguese Government emphasized at the hearing, between, on the one hand, the stage at which the Portuguese State was bound by EU law rules relating to the reduction of an excessive deficit and, on the other hand, the stage at which the scheme containing the obligations arising from the granting of financial assistance by the Union became applicable. was.

48. As Advocate General Bot pointed out in another case concerning austerity measures taken by a Member State in the context of obligations entered into with the European Community, in order to determine whether the provisions of the Charter are applicable from the perspective of Article 51 thereof(41) – not only the wording of the national provisions in question but also the content of the EU law instruments in which those obligations are laid down. In that regard, he has also rightly pointed out that it is of little relevance that those instruments give the Member State concerned scope for maneuver as regards the measures best suited to ensuring compliance with those obligations, since the relevant provisions concern objectives which – unlike mere recommendations addressed by the Council on the basis of Article 126 TFEU to Member States whose government deficit is deemed to be excessive – are sufficiently detailed and precise to constitute specific EU law provisions in that regard.(42)

49. In the present case, the referring court does not rely on the wording of Law No 75/2014 to characterize the relationship between that law and EU law. Indeed, that law does not refer anywhere to an act of EU law, unlike the explanatory memorandum to the draft law which led to its adoption, which demonstrates the relationship with budgetary obligations arising from EU law.(43)

50. By contrast, the referring court, like the ASJP, relies in particular on the agreement on an economic and financial adjustment program concluded by the Portuguese State in May 2011(44) and, lastly, on Council Implementing Decision 2012/409 of 10 July 2012 granting Union financial assistance to Portugal, as well as on the Council Recommendation of 18 June 2013 with a view to putting an end to the excessive government deficit in Portugal.

51. In that regard, I would point out that, by their very nature, recommendations of the EU institutions – unlike decisions – are not binding acts. (45) Furthermore, I agree with the Portuguese Government (46) and the Commission that the abovementioned recommendation, which is based in particular on Article 126(7) TFEU, does not contain sufficiently specific and precise objectives to allow the Portuguese State to be considered to have implemented requirements of EU law within the meaning of Article 51 of the Charter by virtue of that recommendation.

52. As regards Implementing Decision 2012/409, mentioned by the referring court, I would point out that it was replaced by Council Implementing Decision 2014/234 of 23 April 2014, which was therefore applicable ratione temporis at the time when the contested measures were adopted pursuant to Law No 75/2014, adopted on 12 September 2014. Article 1 of the latter decision amended Implementing Decision 2011/344, which initially laid down the conditions for the grant of financial assistance

assistance to the Portuguese Republic by the Union in line with Regulation No 407/2010. (47) It is apparent from paragraph 2 of that article that the Portuguese State was required to take specific measures in the course of 2014, 'in line with the provisions of the Memorandum of Understanding', and not merely general ones, (48) which, in the context of 'the 2015 consolidation strategy', included in particular 'the Government developing in 2014 a single salary scale, to be introduced in 2015, aimed at rationalizing and ensuring consistency in remuneration policies for all careers in the public sector'. (49) The discretion which that Member State certainly enjoyed in the exercise of its budgetary powers to determine which precise economic corrective measures it considered most appropriate for achieving the objectives thus prescribed does not affect that analysis. (50)

53. Although serious doubts may arise from the fact that the order for reference is not very clear on this issue, I am nevertheless inclined to take the view that the adoption of measures to reduce salaries in the public sector under Article 2 of Law No 75/2014, which is at issue in the main proceedings, implements provisions of EU law within the meaning of Article 51 of the Charter and that, consequently, the Court has jurisdiction to answer the request for a preliminary ruling also in so far as it concerns Article 47 of the Charter.

### ***C. On the merits***

#### ***1. Subject of the preliminary question***

54. In support of its claims, the ASJP stated that the legal position of sitting magistrates should not be confused with the legal position of government officials in general, who find themselves in a more uncertain situation. Relying on, *inter alia*,

(51) the European Charter on the Statute for Judges(52) adopted under the auspices of the Council of Europe, it states that the stability of the remuneration of serving judges and its setting at a level which is resistant to attempts from outside to influence their decisions makes it possible to comply, in particular, with the principles of independence and impartiality, which are safeguards for judicial activity. It occurs that the principle of judicial independence, in particular in financial terms, which derives from Article 19 TEU and Article 47 of the Charter, precludes decisions to reduce salaries, such as those at issue in the main proceedings, which are taken unilaterally by the executive and legislative authorities of a Member State.

55.

In the same vein, the Court is essentially asked in the order for reference to determine whether there is a general principle of EU law requiring the authorities of the Member States to respect the independence of national courts and, as regards the circumstances of the main proceedings, more specifically to leave their salaries intact at a level sufficient to enable them to perform their duties freely.

56. The referring court considers that such a principle and such consequences flow from both the second subparagraph of Article 19(1) TEU and Article 47 of the Charter, (53) which provisions the Court will, in my view, have to interpret separately (54) if it considers that it has jurisdiction to interpret them. (55) Like the Portuguese Government and the Commission, I do not share the referring court's substantive position for the reasons set out below.

#### ***2. Interpretation of the second subparagraph of Article 19(1) TEU***

57. In support of their argument that the second subparagraph of Article 19(1) TEU expresses a general principle of EU law which affirms judicial independence and which precludes the national measures at issue in the main proceedings, the referring court and the ASJP argue that, from a functional point of view, the courts sitting in the Member States are also European courts, since, in particular by virtue of that provision, they primarily ensure the effective protection of the rights arising from the EU legal order.

58. Although the second subparagraph of Article 19(1) TEU provides that 'Member States shall provide remedies sufficient to ensure effective judicial protection in the fields covered by Union law', (56) and the magistrates of the national courts responsible for that purpose contribute to such judicial protection, the fact remains that the interpretation of the becoming of that provision requires that it be examined in its context.

59. In that context, I would point out that Article 19 TEU is included in Title III of that Treaty, entitled 'Provisions governing the institutions', which lays down a number of general rules concerning the framework conditions within which the various institutions of the European Union – and in particular the Court of Justice of the European Union referred to in the aforementioned Article 19 – exercise the powers referred on them.

60. Furthermore, in the light of the provisions of paragraphs 1 to 3 of Article 19 TEU, it seems to me that the aforementioned concept of 'effective judicial protection' was developed in close connection with the exercise of the functions of the Court of Justice of the European Union:

the first three paragraphs are devoted to its composition and powers. In particular, the first subparagraph of paragraph 1 confers on that institution, which consists of both the Court of Justice and the General Court, the task of ensuring that in the interpretation and application of the Treaties the law is observed, (57) it being noted that there are exceptions to the 'rule of general jurisdiction' laid down in that paragraph. (58)

61. It follows from case law that the second paragraph of the aforementioned paragraph 1 once again sets out the obligation of the Member States confirm that they must 'provide a system of remedies and procedures capable of ensuring respect for the fundamental right to effective judicial protection'.(59) This second paragraph is therefore not directly aimed at national courts, but is intended to ensure that remedies exist in the Member States so that every individual can enjoy such protection in all areas where EU law applies. This requirement is linked to the fact that judicial review of compliance with the legal order of the European Union is ensured not only by its own courts but also, by virtue of the two subparagraphs of the aforementioned paragraph, in cooperation with national courts.(60)

62. The Court has emphasized that that obligation also follows from Article 47 of the Charter with regard to measures taken by the Member States for the implementation of EU law within the meaning of Article 51(1) of the Charter. (61) The first paragraph of Article 47 expressly grants everyone whose rights and freedoms guaranteed by EU law are violated the right to an effective remedy before a tribunal, in compliance with the conditions laid down in that article.

Without prejudging the interpretation of that article and its possible consequences with regard to the facts of the main proceedings,(62) I would point out at this stage that the purpose and content of Article 47 are different from those of Article 19 TEU.

63. As regards Article 19 TEU, the Court has held that it is a matter for the domestic law of each Member State to designate, in compliance with the requirements laid down in particular in the second subparagraph of paragraph 1 thereof, the courts or tribunals having jurisdiction and to lay down the detailed rules of procedure for actions for the protection of the rights which individuals derive from EU law. (63) It seems to me that the purpose of that subparagraph, which requires Member States to provide the remedies necessary to protect those rights effectively, is primarily procedural.

64. In the light of the foregoing, I agree with the Portuguese Government(64) that the concept of 'effective judicial protection' within the meaning of the second subparagraph of Article 19(1) TEU should not be confused with the 'principle of judicial independence' referred to in the question and which is said to flow from that provision.(65)

65. Furthermore, it seems to me that the difference between, on the one hand, the right to effective judicial protection, which must be guaranteed to the individuals of the Member States by means of adequate legal remedies, and, on the other hand, the right to a trial by judges who exercise justice in a completely independent manner, which is also recognized in the interests of those individuals, is clear, having regard to both the title and the wording of Article 47 of the Charter, which distinguishes between the two rights.(66) The distinction is made

This is also made clear in the European Convention on Human Rights and Fundamental Freedoms(67), since the 'right to an effective remedy' before a national authority is provided for in Article 13 thereof, while the '[r]ight to a fair trial', including in particular the right of everyone 'to have his case heard by an independent tribunal', is set out in Article 6 thereof(68), even though the two articles are clearly materially linked(69). I will return to this when interpreting Article 47 of the Charter.(70)

66. In my view, the obligation imposed on Member States by the second subparagraph of Article 19(1) TEU to provide for a system of 'remedies' is linked only to the right to 'effective judicial protection', as is clear from the becoming of that provision, and not to the right to a fair trial before an independent tribunal, which has a substantially different content.

67. Consequently, I consider that the second paragraph must be interpreted as not establishing a general principle of EU law requiring the independence of the judges of all courts of the Member States to be guaranteed.

68. If the Court were to hold that the principle of judicial independence flows directly from the requirement of effective judicial protection laid down in the second subparagraph of Article 19(1) TEU, as the referring court considers, I would consider, in the alternative, in any event that neither that provision nor that principle(71) can be understood as precluding national measures reducing salaries such as those contested by the applicant in the main proceedings, since they are in no way specifically aimed at judges but, on the contrary, are of general application(72) since they apply to a large group of persons employed within the public sector.(73)

### ***3. Interpretation of Article 47 of the Charter***

69. Like the ASJP, the referring court submits that, under Article 47 of the Charter, the courts of the Member States must provide effective judicial protection of the rights conferred on citizens by the EU legal order in an independent and impartial manner and that the unilateral salary reduction at issue in the main proceedings may have undermined the independence of the judges concerned.

70. In this regard, I would recall – as Advocate General Wathelet recently explained(74) – that the Charter, as is apparent from its title(75) and the wording of Article 47 thereof, recognises, on the one hand, the right to an effective remedy, which is also enshrined in Article 13 of the ECHR, and, on the other hand, the right to a fair trial, including the right of access to an independent and impartial tribunal, which is enshrined in Article 6(1) of the ECHR.

71. Since the content of the aforementioned Article 47 is directly inspired by those provisions of the ECHR,(76) Article 52(3) of the Charter requires it to be interpreted not only in the light of the explanations to the Charter but also in the light of the case-law of the European Court of Human Rights ('the ECtHR')(77), so that the rights guaranteed by Article 47 have in principle the same meaning and scope as those granted by the ECHR, although that rule does not prevent EU law from providing more extensive protection. It has been pointed out from the outset(78) that the protection afforded by Article 47 of the Charter provides protection whose substantive scope is broader than that of the corresponding articles of the ECHR.(79)

72. In the light of the case-law relating to the ECHR and the Protocols annexed thereto,(80) it seems to me that the 'principle of judicial independence' referred to in this request for a preliminary ruling falls within the right of '[e]very person to have his case heard by an independent and impartial tribunal' under the second paragraph of Article 47 of the Charter,(81) rather than within the 'right to an effective remedy' provided for in the first paragraph of that article. (82)

73. Both the referring court and the ASJP submit that the principle of judicial independence 'may preclude the salary reduction measures to which magistrates in Portugal are subject, on the grounds that they have been imposed unilaterally and continuously by other public authorities/bodies'.(83)

74. The ECtHR has repeatedly held that the guarantee of an "independent tribunal" within the meaning of Article 6(1) of the ECHR(84) not only requires that judges be independent in their legal position(85) but also in the exercise of their functions. The latter has an internal dimension within the judiciary (86), which is not at issue in this case, as well as an external dimension beyond it, which implies that judges must be able to do their work without being influenced by the parties to the proceedings(87) or by the other powers within the State,(88) which, in my view, is the only approach advanced by the ASJP. I would stress that the Court has adopted a similar approach when establishing the criteria for assessing whether a national court is independent.(89)

75. As regards, more specifically, the independence of members of a judicial body from the point of view of their remuneration, the ECtHR has accepted the interdependence between the two by holding that 'the failure to pay judges their remuneration in a timely manner is incompatible with the need to ensure that they are able to exercise their judicial functions independently and impartially, resistant to external pressures aimed at influencing their decisions and conduct', emphasizing in this regard that 'judicial independence is a sensitive issue'.(90)

76. This analysis is based on several Council of Europe legal instruments which mention such concerns. Article 6 of the European Charter on the Statute for Judges, which has no binding effect, states that the remuneration of judges must be set at a level which ensures that they are not exposed to any pressure which could undermine their independence, even though the level of such remuneration may vary from one judge to another on the basis of objective criteria, such as the importance of the duties assigned to them.(91) Furthermore, recommendations of the Committee of Ministers(92) have stated that '[t]he remuneration of judges should be proportionate to their role and responsibilities and at a level which enables them to stand with any external pressure which may influence their decisions' and that '[s]pecific legal provisions should be adopted to make it impossible to make reductions in the salary of judges specifically targeted'.(93)

77. In the light of the foregoing, I consider that the right of everyone to have his case heard by an independent tribunal, within the meaning of Article 47 of the Charter, requires that the independence of the members of that tribunal be guaranteed by providing them, having regard to the responsibilities they bear, with a remuneration that is sufficiently high and stable to protect them from any risk of external interference or pressure prejudicial to the neutrality of the judicial decisions which they are called upon to take.

78. While the level of remuneration of judges must be consistent with the importance of the public function which they perform, that amount must not be disproportionate to economic and social reality and, in particular, to the average standard of living in the State in which the persons concerned perform their duties.(94) Furthermore, reasonable stability of their income means, in my view, that it must not vary over time to such an extent as to jeopardize the independence of their judgment, but not that any change is ruled out.

79. More specifically, in a period of serious economic crisis such as that which prevailed in the period preceding the adoption of the measures at issue in the main proceedings, (95) the principle of judicial independence cannot be understood as precluding a reduction in the remuneration of judges, even though such a reduction must of course remain within reasonable proportions in order to avoid making them susceptible to any pressure that may be brought to bear on them. A fair balance must be struck, as the Portuguese Government submits, between the general interest of the Community and the particular interest of the judges, who are responsible for ensuring that the rights conferred on individuals are respected.

80. Moreover, the contested discount measures – as I(96) as the Portuguese Government(97) and the Commission have already emphasized – does not concern only sitting magistrates but a large number of people working in the public sector.

Since the measures were by no means aimed exclusively or even specifically at judges, it cannot be assumed that the 'other public authorities/bodies' mentioned in the question referred would have attempted to unbalance members of the judiciary, especially since members of both the legislature and the executive were affected by exactly the same austerity measures under Article 2 of Law No 75/2014.

81.

Accordingly, I consider that Article 47 of the Charter should be interpreted as meaning that does not oppose the adoption of national measures such as those contested in the main proceedings, since they do not infringe the principle of judicial independence laid down in that article.

82. A contradictory interpretation would in practice have the consequence, in my view regrettable, that in the event of a serious economic crisis the Member States would be deprived of the possibility of a necessary – not exclusively concerning judges and not disproportionate – intervention in the salaries of persons who are part of the public sector in the broad sense.

#### **V. Conclusion**

83. In the light of the foregoing, I propose that the Court answer the question referred for a preliminary ruling by the Supremo Tribunal Administrativo as follows:

"The second subparagraph of Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding general measures to reduce salaries in the public sector to which judges are subject under national legislation such as that at issue in the main proceedings."

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Original language: French.

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Article 19 TEU reads as follows: '1.

The Court of Justice of the European Union shall comprise the Court of Justice, the General Court and specialized courts. It shall ensure that in the interpretation and application of the Treaties the law is observed.

Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General. [...]

The Court of Justice of the European Union shall give judgment in accordance with the Treaties [...]."

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3 Article 47 of the Charter, entitled 'Right to an effective remedy and to a fair trial', provides in its first and second paragraphs: 'Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.'

Everyone has the right to a fair and public hearing within a reasonable time,

by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.”

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<sup>4</sup> OJ 2010, L 125, p. 44 and corrigendum OJ 2014, L 106, p. 46.

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<sup>5</sup> OJ 2010, L 118, p. 1.

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<sup>6</sup> The original English document can be found at the following web address: <https://www.imf.org/external/np/loi/2011/prt/051711.pdf>.

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<sup>7</sup> OJ 2011, L 159, p. 88.

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<sup>8</sup> OJ 2012, L 192, p. 12.

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<sup>9</sup> OJ 2014, L 125, p. 75.

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<sup>10</sup> Original English document: Council recommendation with a view to bringing an end to the situation of an excessive government deficit in Portugal, June 18, 2013, 10562/13.

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<sup>11</sup> *Diário da República*, 1st series, No. 176 of September 12, 2014, p. 4896. Draft Law No. 239/XII, approved by the Council of Ministers on 3 July 2014 and which led to Law No. 75/2014, can be consulted at the following address: [https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetalheDiplomaAprovado.aspx?BID=18267](http://www.parlamento.pt/ActividadeParlamentar/Paginas/DetalheDiplomaAprovado.aspx?BID=18267).

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<sup>12</sup> *Diário da República*, 1st series, no. 254 of December 30, 2015, p. 10006-(4). The text of Law No. 159-A/2015 can also be consulted at the following web address: <http://www.parlamento.pt/ActividadeParlamentar/Paginas/DetalheDiplomaAprovado.aspx?BID=19068>.

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<sup>13</sup> As regards that category, see the list in the aforementioned Article 2, paragraph 9, point (f).

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<sup>14</sup> According to Article 203, "the courts shall be independent and subject only to the law".

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<sup>15</sup> The Commission also stated that the referring court does not explain the reasons why the magistrates were affected in particular by a national measure which concerns a large number of office-holders. Since, in my view, this argument concerns substantive EU law rather than procedural rules, I prefer to deal with it in that context (see points 54 et seq. of this Opinion).

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<sup>16</sup> Where the order for reference does not contain sufficient information on the legal and factual context of the main proceedings or on the reasons justifying the need for an answer to the questions referred for a preliminary ruling in order to resolve the dispute, the Court will generally declare the request for a preliminary ruling inadmissible, in whole or in part (see, in particular, judgments of 18 July 2013, ÖFAB, C-147/12, EU:C:2013:490, paragraphs 44 to 46, and of 4 May 2016, Philip Morris Brands and Others, C-547/14, EU:C:2016:325, paragraphs 47 to 53, and order of 8 September 2016, Google Ireland and Google Italy, C-322/15, EU:C:2016:672, paragraph 15 et seq.).

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<sup>17</sup> The order for reference must provide sufficient information, firstly to the Court, to enable it to give a useful answer to the question referred for a preliminary ruling and, secondly, to all the interested parties designated in Article 23 of the Statute of the Court of Justice of the European Union – and in particular the 28 Member States – to whom the order for reference is served after translation, so that they can submit any observations.

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<sup>18</sup> The Court has repeatedly recalled these rules in its case-law (see, in particular, the passages in the judgments referred to in footnote 16 of this Opinion and the case-law cited therein) and in its 'Recommendations to national courts and tribunals on the initiation of preliminary ruling proceedings', updated in 2016 (OJ 2016 C 439, pp. 1 to 8, and in particular paragraphs 14 to 18 and the summary annex 'Essential elements of a request for a preliminary ruling'). See also Gaudissart, MA, 'Les recommandations de la Cour de justice aux jurisdictions nationales, relatives à l'introduction de procédures préjudiciales', *Journal de droit européen*, 2017 No 2, p. 42 et seq.

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<sup>19</sup> With regard to the reasoning of the referral decision, see points 11 et seq. of this Opinion.

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<sup>20</sup> See, by analogy, judgments of 12 February 2015, Surgicare (C-662/13, EU:C:2015:89, paragraphs 16 to 23), and of 11 June 2015, Lisboagás GDL (C-256/14, EU:C:2015:387, paragraphs 24 to 27).

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<sup>21</sup> The Portuguese Government has put forward these arguments in the alternative, in the event that the Court were to declare itself competent to rule on the request for a preliminary ruling.

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[22](#) See points 7 and 8 of this Opinion.

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[23](#) See, in particular, judgments of 8 December 2016, *Eurosaneamientos and Others* (C-532/15 and C-538/15, EU:C:2016:932, paragraph 28), and of 21 December 2016, *Associazione Italia Nostra Onlus* (C-444/15, EU:C:2016:978, paragraph 36).

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[24](#) See, in particular, judgment of 26 February 2015, *Matei* (C-143/13, EU:C:2015:127, paragraph 38), and order of 3 March 2016, *Euro Bank* (C-537/15, not published, EU:C:2016:143, paragraph 32).

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[25](#) See, in particular, order of the Court of 10 February 2015, *Liivimaa Lihaveis* (C-175/13, not published, EU:C:2015:80, paragraphs 17 to 21).

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[26](#) See, in particular, judgments of 24 October 2013, *Stoilov i Ko* (C-180/12, EU:C:2013:693, paragraphs 44 to 48), and of 3 July 2014, *Da Silva* (C-189/13, not published, EU:C:2014:2043, paragraphs 34 to 37).

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[27](#) See, in particular, judgments of 9 December 2010, *Fluxys* (C-241/09, EU:C:2010:753, paragraphs 32 to 34), of 27 June 2013, *Di Donna* (C-492/11, EU:C:2013:428, paragraphs 27 to 32), and order of 3 March 2016, *Euro Bank* (C-537/15, not published, EU:C:2016:143, paragraphs 34 to 36).

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[28](#) See judgment of 12 January 2010, *Petersen* (C-341/08, EU:C:2010:4, paragraphs 28 and 29).

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[29](#) I would point out once again that the request for a preliminary ruling was registered on 5 February 2016 and that, although Law No 159-A/2015 entered into force on 1 January 2016, it did not have retroactive effect and was initially only partially implemented (the reduction was 40% for salaries from 1 January 2016, 60% for salaries from 1 April 2016 and 80% for salaries from 1 July 2016), and was only fully implemented with effect from 1 October 2016 (see points 7 and 8 and 26 and 27 of this Opinion). The loss of income claimed by the persons represented by the applicant in the main proceedings had therefore not been fully compensated at the date of the referral to the Court.

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[30](#) The Portuguese Government has inferred from the case-law on Article 51 of the Charter that the Court clearly lacks jurisdiction to rule on the interpretation of both Article 19 TEU and Article 47 of the Charter. The Commission, for its part, has based the Court's lack of jurisdiction to answer the question referred for a preliminary ruling from the perspective of Article 19 TEU in particular on the fact that the referring court had failed to provide sufficient reasons in its order for reference as to the relationship between EU law and the national legislation applicable to the main proceedings (in my view, this complaint concerns rather the admissibility of the request for a preliminary ruling, which was examined in points 18 and seq. of this Opinion).

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<sup>31</sup> See points 44 et seq. of this Opinion.

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<sup>32</sup> Let me first point out that I will argue for a different interpretation of Article 19 TEU than that of the ASJP (see points 58 and seq. of this Opinion).

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<sup>33</sup> My italics.

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<sup>34</sup> In its judgment of 26 February 2013, Åkerberg Fransson (C-617/10, EU:C:2013:105, paragraphs 17 to 23), the Court held, in particular, that since '[t]he fundamental rights guaranteed by the Charter must be respected where national legislation falls within the scope of EU law, ... there cannot be cases in which EU law applies without those fundamental rights being applied. The applicability of EU law implies that the fundamental rights guaranteed by the Charter are applicable.' (paragraph 21). See also judgment of 16 May 2017, Berlioz Investment Fund (C-682/15, EU:C:2017:373, paragraph 49).

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<sup>35</sup> The Court has emphasized that the concept of 'implementing EU law' within the meaning of Article 51 of the Charter requires that there be some connection between the EU law act and the national measure concerned, which goes beyond the proximity of the matters concerned or the indirect influence of one matter on the other. In that regard, it must be determined, *inter alia*, whether it is intended to implement a provision of EU law, what the nature of that provision is and whether it does not pursue objectives other than those covered by EU law, even if that provision could indirectly affect that law, and whether there is a provision of EU law specific to that area or capable of affecting it (see, in particular, judgments of 10 July 2014, Julián Hernández and Others, C-198/13, EU:C:2014:2055, paragraph 34 et seq., and of 6 October 2016, Paoletti and Others, C-218/15, EU:C:2016:748, paragraph 14 et seq.).

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<sup>36</sup> See, in particular, judgment of 8 November 2016, Lesoochranárske zoskupenie VLK (C-243/15, EU:C:2016:838, paragraph 51 et seq.), as well as orders of 14 April 2016, Târÿia (C-328/15, not published, EU:C:2016:273, paragraphs 23 and 24), and of 13 December 2016, Semeraro (C-484/16, not published, EU:C:2016:952, paragraph 43).

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<sup>37</sup> Namely, legal provisions that implemented a salary cut in the public sector in order to limit government spending in Portugal.

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<sup>38</sup> See orders of 7 March 2013, Sindicato dos Bancários do Norte and Others (C-128/12, not published, EU:C:2013:149, paragraph 12), of 26 June 2014, Sindicato Nacional dos Profissionais de Seguros e Afins (C-264/12, EU:C:2014:2036, paragraphs 19 et seq.), and 21 October 2014, Sindicato Nacional dos Profissionais de Seguros e Afins (C-665/13, EU:C:2014:2327, paragraph 14).

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[39](#) That list includes most of the actions mentioned in point 4 of this Opinion.

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[40](#) The referring court refers to an 'Explanatory Memorandum to the 2011 State Budget' by the Minister for Finance and Public Administration, which refers to Decision 2010/288 of the Council of the European Union, without specifying whether that decision was taken into account in the legislative history of Law No 75/2014, which is at issue in the main proceedings.

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[41](#) See the Opinion of Advocate General Bot in Florescu and Others (C-258/14, EU:C:2016:995, points 61 et seq.).

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[42](#) That case concerned, in particular, the Memorandum of Understanding concluded on 23 June 2009 between Romania and the European Community, as well as Council Decision 2009/459/EC of 6 May 2009 providing Community medium-term financial assistance to Romania (OJ 2009 L 150, p. 8).

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[43](#) The explanatory memorandum to Bill No 239/XII emphasizes that the Portuguese Republic's membership of the European Union and its accession to the euro area oblige it to comply with strict budgetary conditions, which are set out in the TFEU, in the Protocol to that Treaty and in the regulations implementing the Stability and Growth Pact, as well as in the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union. That memorandum also mentions the possibility of imposing financial sanctions on Member States that exceed the budget deficit reference value. It also refers to the economic adjustment program agreed with the Commission, the ECB and the IMF. It is added that, since the budgetary discipline imposed by the permanent and unchangeable obligations to which the Portuguese Republic is bound, now that it is part of the European Union and the Eurozone, requires that the total wage bill in the public sector – as an essential part of State expenditure – be kept under control, the bill aims to establish the percentages and limits of the reduction in current salaries from 2011 onwards, while also determining its complete, gradual withdrawal in accordance with the available budgetary margin (see pp. 1-4).

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[44](#) I would like to emphasize that this first memorandum of understanding, which has subsequently been amended several times – as the Commission indicates in its observations – provided for a three-year program for the period 'until mid-2014' (see recital 2 of Council Implementing Decision 2011/344).

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[45](#) Under the fourth and fifth paragraphs of Article 288 TFEU.

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46 The Government refers in particular to judgment No 574 of 14 August 2014 of the Tribunal Constitucional (Constitutional Court, Portugal), delivered to that effect. That court nevertheless points out that certain specific measures may result from the implementing decisions of the Council in the context of the Union's program of economic and financial assistance to the Portuguese State.

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47 According to paragraph 1 of that Article 1, the financial assistance is to be made available to the Portuguese State for a period of three years and six weeks, starting from the first day after the entry into force of Implementing Decision 2011/344. Since the end of the economy reform programme, that State has been subject to a post-programme surveillance, as the Commission referred to it at the hearing (see on this subject: [https://ec.europa.eu/info/businessseconomy/euro/economicandfiscalpolicycoordination/eufinancialassistance/e/whicheucountrieshavereceivedassistance/financialassistanceportugal\\_en](https://ec.europa.eu/info/businessseconomy/euro/economicandfiscalpolicycoordination/eufinancialassistance/e/whicheucountrieshavereceivedassistance/financialassistanceportugal_en)).

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48 A clear distinction must be made between those measures, which are specifically imposed on a Member State, and the budgetary obligations generally imposed on Member States, and in particular on those belonging to the euro area, in particular under the regulations on the Stability and Growth Pact [see, *inter alia*, recitals 1 to 5 and Article 1 of Council Regulation (EU) No 1177/2011 of 8 November 2011 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ 2011 L 306, p. 33)].

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49 See Article 3(8)(h)(i) and (ii) of Implementing Decision 2011/344 as amended by Article 1 of Implementing Decision 2014/234, as well as the fourth indent of recital 11 thereof, which states that '[t]he Public Expenditure Review and the 2014 consolidation strategy are underpinned by a number of key reforms in the public administration', including 'a revision of the salary scale and the development of a single salary supplement scale'.

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50 I consider that the adoption by the Portuguese State of Law No 75/2014 was not an 'autonomous initiative going beyond the discretion conferred and limited by EU law', as the Commission returned, but an act aimed at complying with the specific economic obligations it had assumed in order to receive the financial assistance granted to it.

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51 The ASJP also mentions two evaluation reports on the European judicial systems by the Commission européenne pour l'efficacité de la justice (CEPEJ) (European Commission for the Efficiency of Justice) of the Council of Europe, which can be consulted at the following web address: [http://www.coe.int/t/dghl/cooperation/cepej/series/default\\_fr.asp](http://www.coe.int/t/dghl/cooperation/cepej/series/default_fr.asp).

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52 The European Charter on the Statute for Judges, adopted at a meeting on 8-10 July 1998, provides in Article 6, entitled 'Remuneration and social security': '6.1. Judges exercising judicial functions on a professional basis shall be entitled to remuneration sufficient to enable them to withstand pressures designed to influence their decisions and, more generally, their judicial action by undermining their independence and impartiality.

to touch.

6.2. The remuneration may vary according to seniority, the nature of the position to which he or she is professionally appointed or the importance of the tasks assigned, which shall be assessed on the basis of transparent criteria. [...]"

The article-by-article commentary to this Charter provides useful information on its content (available at the following web address: <https://wcd.coe.int/ViewDoc.jsp?p=&id=1766477&Site=COE&direct=true#>).

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I recall that the question referred for a preliminary ruling refers not only to those articles but also to 'the case-law of the Court of Justice', from which the principle of judicial independence also flows, but that the order for reference does not cite any decision of the Court to that effect.

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Although it cannot be ruled out that some considerations relating to Article 47 of the Charter may also provide clarification for the interpretation of Article 19 TEU, and vice versa (see, in particular, Opinion of Advocate General Wathelet in *Berlioz Investment Fund*, C-682/15, EU:C:2017:2, points 38 and 67).

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And of course, provided that the request for a preliminary ruling is declared admissible.

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My italics.

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Article 19, paragraph 2, TEU describes the composition of the Court and the status of its members, while paragraph 3 defines its areas of jurisdiction in terms of the various remedies available to it.

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See, in particular, judgment of 19 July 2016, *H v Council and Commission* (C-455/14 P, EU:C:2016:569, paragraphs 39 and 40) concerning derogations in the field of the common foreign and security policy.

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See, in particular, judgments of 3 October 2013, *Inuit Tapiriit Kanatami and Others v Parliament and Council* (C-583/11 P, EU:C:2013:625, paragraphs 100 and 101), and of 28 April 2015, *T & L Sugars and Sidul Açúcares v Commission* (C-456/13 P, EU:C:2015:284, paragraphs 49 and 50).

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<sup>60</sup> See, in particular, the Opinion of Advocate General Kokott in *Inuit Tapiriit Kanatami and Others v Parliament and Council* (C-583/11 P, EU:C:2013:21, points 34, 116 and 121); judgments of 3 October 2013, *Inuit Tapiriit Kanatami and Others v Parliament and Council* (C-583/11 P, EU:C:2013:625, paragraphs 90 and 99), and of 28 April 2015, *T & L Sugars and Sidul Açúcares v Commission* (C-456/13 P, EU:C:2015:284, paragraph 45), and order of 24 January 2017, *Beul v Parliament and Council* (C-53/16 P, not published, EU:C:2017:66, paragraphs 18 and 19).

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<sup>61</sup> See judgment of 28 April 2015, T & L Sugars and Sidul Açúcares v Commission (C-456/13 P, EU:C:2015:284, paragraph 50). See also judgment of 16 May 2017, Berlioz Investment Fund (C-682/15, EU:C:2017:373, paragraph 44).

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<sup>62</sup> See points 69 et seq. of this Opinion.

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<sup>63</sup> See in particular judgment of 3 October 2013, Inuit Tapiriit Kanatami and Others v Parliament and Council (C-583/11 P, EU:C:2013:625, paragraph 102 et seq.).

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<sup>64</sup> The Commission has not, either in its written or in its oral observations – or in the alternative – taken a clear position on the interpretation of the second subparagraph of Article 19(1) TEU.

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<sup>65</sup> The Portuguese Government rightly emphasizes that the principle of effective judicial protection, which aims to guarantee the existence of an appropriate procedure for any individual right or interest protected by law to enforce it in court, must be seen in a completely different perspective than the principle of judicial independence, which guarantees the impartiality of the judicial authority in the face of extrajudicial and unlawful interference in the judicial process

procedure.

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<sup>66</sup> The title of Article 47 of the Charter distinguishes between the '[r]ight to an effective remedy', to which the first paragraph of that article is devoted, and the '[r]ight to an impartial trial', which implies the right to an 'independent tribunal', as stated in the second paragraph. See also, to that effect, judgment of 8 November 2016, Lesoochranárske zoskupenie VLK (C-243/15, EU:C:2016:838, paragraph 54 et seq.).

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<sup>67</sup> Convention signed in Rome on November 4, 1950 (hereinafter: 'ECHR').

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<sup>68</sup> The same distinction is made, moreover, in the Constitution of the Portuguese Republic: 'Access to justice and effective judicial protection' is provided for in Article 20 thereof, while the independence of the judiciary is provided for in Article 203 thereof (cited in footnote 14 of this Opinion).

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<sup>69</sup> See in particular the judgment of the ECtHR of 26 October 2000 (Kudýa v. Poland, CE:ECHR:2000:1026JUD003021096, paragraphs 150-156).

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70 See points 69 et seq. of this Opinion.

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71 For the specific consequences of the principle of judicial independence in the main proceedings, see also points 77 et seq. of this Opinion.

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72 However, the fact that those measures were only temporary in nature (Law No 75/2014 entered into force as from October 2014, whereas the salary reduction was repealed in its entirety by Law No 159-A/2015 as of 1 October 2016), as the Portuguese Government again, does not seem to me to be decisive, since any infringement of a general principle of EU law, even if temporary, would be inherently contradictory to EU law, although the seriousness of the infringement would clearly be less than in the case of a permanent infringement.

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73 See the long list of persons, including in particular both sitting and standing magistrates, in Article 2, paragraph 9, points (a) ('President of the Republic') to (t) ('reserve staff, staff on early retirement or staff at the disposal of the Court [...]') of Law No 75/2014, cited in point 6 of this Opinion.

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74 See Opinion of Advocate General Wathelet in Berlioz Investment Fund (C-682/15, EU:C:2017:2, points 34 et seq.). See also judgment of 16 May 2017, Berlioz Investment Fund (C-682/15, EU:C:2017:373, point 54).

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75 Namely "Right to an effective remedy and to a fair trial".

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76 According to the Explanations relating to the Charter of Fundamental Rights (OJ 2007 C 303, p. 17 et seq.), 'the first paragraph [of Article 47 of the Charter] is based on Article 13 of the ECHR' and 'the second paragraph [corresponds] to Article 6(1) of the ECHR' (see 'Explanation on Article 47', first and third paragraphs).

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77 The fact that reference must be made to Article 47 of the Charter only if the situation at issue is subject to EU law (see judgment of 16 May 2017, Berlioz Investment Fund (C-682/15, EU:C:2017:373, paragraph 54 and the case-law cited) does not preclude the possibility of interpreting that article in the light of the case-law of the ECtHR. See, in particular, judgment of 15 February 2016, N. (C-601/15 PPU, EU:C:2016:84, paragraph 45 et seq.), as well as the examples from the case-law cited by Lebrun, G., 'De l'utilité de l'article 47 de la Charte des droits fondamentaux de l'Union européenne', *Revue trimestrielle des droits de l'homme*, 2016, No. 106, especially pp. 439-445.

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78 See Explanations to the Charter "Explanation on Article 47", second and fourth paragraphs, as well as "Explanation on Article 52", where "Article 47, [second and third paragraphs]" is cited as one of the

"[a]rticles the content of which is the same as that of the corresponding articles of the ECHR, but the scope of which is wider".

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**79** In his Opinion in Berlioz Investment Fund (C-682/15, EU:C:2017:2, point 37), Advocate General Wathelet emphasizes that 'Article 47 of the Charter has a broader material scope.

First of all, this provision applies where "the rights and freedoms guaranteed by Union law have been violated" (whether or not they are included in the Charter), whereas the application of Article 13 ECHR requires a violation of the "rights and freedoms set out in [the ECHR]". On the other hand, Article 6(1) ECHR limits the right to a fair trial to situations involving the determination of civil rights and

obligations or the determination of the merits of a criminal charge. No such limitation is found in the second paragraph of Article 47 of the Charter" (see also points 61 et seq. of that Opinion).

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**80** In the Explanations to the Charter, the 'Explanation on Article 52' clarifies that in paragraph 3 of Article 52 '[t]he reference to the ECHR applies both to the Convention and to the Protocols annexed to it. The content and scope of the rights guaranteed are determined not only by the text of those instruments but also by the case-law of the [ECtHR] and of the Court of Justice of the European Union. The last sentence of [paragraph 3] is intended to enable the Union to ensure more extensive protection. In any event, the level of protection guaranteed

by the Charter may never be lower than that guaranteed by the ECHR.'

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**81** For the sake of clarity, I would point out that the right of access to an independent tribunal within the meaning of Article 47 of the Charter also applies to administrative proceedings, such as those in the main proceedings (see, in particular, Dutheil de la Rochère, J., 'Charte des droits foundation of the European Union', *Jurisclasseur Europe*, issue 160, 2010, paragraph 87). As regards proceedings concerning magistrates from the perspective of Article 6(1) ECHR, see ECtHR judgment of 23 June 2016, Baka v. Hungary (CE:ECHR:2016:0623JUD002026112, paragraphs 102 et seq.).

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**82** On the 'right to an effective remedy' referred to in Article 13 ECHR, see in particular the judgment of the ECtHR of 26 October 2000 (Kud  a v. Poland, CE:ECHR:2000:1026JUD003021096, paragraph 157).

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**83** See the wording of the question referred for a preliminary ruling and the observations of the ASJP, which states that the decisions on the contested reductions were taken and imposed by the executive and legislative authorities without taking into account the fact that the remuneration of judges contributes to their functional independence. On the other hand, it does not dispute that the clients of the applicant in the main proceedings were actually able to make use of the remedies available to them in Portugal: the referring court is the Supremo Tribunal Administrativo.

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**84** The conditions of independence and impartiality imposed on national courts are certainly interrelated and are sometimes examined together (see, in particular, the judgment ECHR of 21 June 2016, Ramos Nunes de Carvalho e S   v Portugal, CE:ECHR:2016:0621JUD005539113,

point 74). Nevertheless, they remain different concepts, so I will limit my explanation – taking into account the circumstances of the main proceedings – to the first.

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85 The manner in which the members of the court are appointed, the duration of their term of office or their irremovability are taken into account, *inter alia* (see, in particular, ECtHR judgment of 18 July 2013, *Maktouf and Damjanović v. Bosnia and Herzegovina*, CE:ECHR:2013:0718JUD000231208, paragraph 49).

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86 This first aspect requires that every judge must be free from directives or pressure from within the judiciary itself, in particular from colleagues to whom he is administratively or hierarchically subordinate (see, in particular, ECtHR judgment of 6 October 2011, *Agrokompleks v. Ukraine*, CE:ECHR:2011:1006JUD002346503, paragraph 137).

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87 See, in particular, ECtHR judgment of 18 July 2013, *Maktouf and Damjanović v. Bosnia and Herzegovina* (CE:ECHR:2013:0718JUD000231208, paragraph 49).

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88 See, in particular, as regards the legislative branch, ECtHR judgment of 3 September 2013, *MC and Others v. Italy* (CE:ECHR:2013:0903JUD000537611, paragraph 59), and as regards the executive branch, ECtHR judgment of 21 June 2016, *Ramos Nunes de Carvalho e Sá v. Portugal* (CE:ECHR:2016:0621JUD005539113, paragraphs 70 and 75).

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89 See, in particular, judgment of 16 February 2017, *Margarit Panicello* (C-503/15, EU:C:2017:126, paragraph 37 *et seq.* and the case-law cited).

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90 Judgment of the ECtHR of 26 April 2016, *Zoubko and Others v. Ukraine* (CE:ECHR:2006:0426JUD000395504, paragraphs 67 and 68), concerning the alleged infringement of Article 1 of the Additional Protocol to the ECHR, which states: 'Every natural or legal person is entitled to the peaceful enjoyment of his possessions.'

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91 These provisions are cited in footnote 52 of this Opinion.

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92 See Recommendation R(94)12 of the Committee of Ministers of the Council of Europe to member states on 'the independence, competence and role of judges', adopted on 13 October 1994, Principle III, paragraph 1(b), as well as Recommendation CM/Rec(2010)12, 'Judges: independence, competence and responsibility', adopted by the Committee of Ministers of the Council of Europe on 17 November 2010, and the Annex thereto, paragraphs 53-55.

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<sup>93</sup> On the latter aspect, see also Opinion No. 1 (2001) of the Consultative Council of European Judges (CCJE) for the attention of the Committee of Ministers of the Council of Europe on the rules on the independence and irremovability of judges, of 23 November 2001, point 62.

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Also according to the 'Report on the Independence of the Judicial System – Part I: The Independence of Judges' of the European Commission for Democracy through Law of the Council of Europe (Venice Commission), of 16 March 2010, '[w]hen determining remuneration, account must be taken of the social conditions in the country' (point 46).

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In this regard, the Portuguese Government points out that the adoption of the contested measures was a fundamental choice made by the competent bodies of the Portuguese State, justified by the objective of eliminating the excessive public deficit and by the need for that State to comply with the international obligations arising from the financial assistance received under Union provisions.

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See point 68 and footnote 73 of this Opinion.

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<sup>97</sup> The Government pointed out that the contested measures were intended, firstly, ultimately to promote the general interest of the community, as defined by the Portuguese State as legislature in accordance with the national Constitution, and, secondly, to ensure a fair and equitable distribution of the burdens entailed by those measures and borne by all officials of State bodies, public sector employees and other public servants.



## Respect for human rights

Respect for human rights constitutes an "essential element" of the EU's association agreements with partner countries. The provisions of the EU-Israel Association Agreement state that the Parties establish the association "given the importance they attach..[ ] to the principles of the United Nations Charter, in particular respect for human rights and democracy, which constitute the basis of the association." Article 2 states that "relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and principles, which guide their internal democratic policies and constitute an essential element of this Agreement

forms."

Violation of the so-called "essential elements" clauses allows the EU to terminate or suspend an association agreement in whole or in part, under Article 60 of the Vienna Convention on the Law of Treaties. Article 82 of the association agreement provides that "any Party may denounce the agreement by notifying the other Party", while Article 79(2) sets out the applicable procedural rules for this procedure.

Third States have a responsibility under international law to prevent genocide and must therefore take all diplomatic, economic and political measures within their power to prevent genocide in Gaza. EU Member States should use their influence and all legitimate means at their disposal to influence Israel to refrain from acts contrary to the Genocide Convention and to end the illegal occupation, as determined by the International Court of Justice, including by revising or suspending trade negotiations and agreements.

Source: statewatch.org

20 Sep 2024





**Image ID: 2Y906YW**

Image title Brussels, Belgium. 07th Oct, 2024. European Commission president Ursula Von der Leyen pictured during a ceremony to pay tribute to the memory of the victims of last year October 7th attack in Israel, at the Great Synagogue in Brussels, Monday 07 October 2024. The father of Israeli soldier Nimrodi, kidnapped and still hero in Gaza, will speak at the ceremony marking the first anniversary. BELGA PHOTO ERIC LALMAND Credit: Belga News Agency/Alamy Live News Model release NO Property release NO Credit line Belga News Agency / Alamy Stock Photo

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# Partners in Crime

## EU complicity in Israel's genocide in Gaza

June 4, 2024 • 45 minutes minutes read

Since the attacks of 7 October, the EU has provided political cover and material support for Israel. This has continued through almost eight months of unrelenting bombardment with almost 40,000 people killed, the forced displacement of 2.3 million people, the fastest descent into starvation of an entire population ever recorded and the total destruction of Gaza's civilian infrastructure including homes, hospitals, schools and universities, places of worship and bakeries. This support continued as Israel was placed on trial for genocide at the International Court of Justice (ICJ) in The Hague and as the International Criminal Court (ICC) announced that it would seek judgment warrants for Israel's prime minister Benjamin Netanyahu and defense minister Yoav Gallant. Were the EU to have applied pressure in October by imposing sanctions, an arms embargo and prohibiting the transit of US military equipment through Europe, Israel's genocidal war on Gaza may have been curtailed. The EU chose not to act then, and it continues to fail in its legal and moral duty to act now. This political cover and material support, particularly in light of the ICJ's interim ruling which puts all states on notice of a plausible case of genocide, makes the EU directly complicit in it.



Partners in Crime - EU complicity in Israel's genocide in Gaza

<https://archive.org/details/partners-in-crime>

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Europe is complicit in Israel's genocide in Gaza

<https://archive.org/details/europa-is-medeplichtig-aan-de-genocide>

Israel meets the definition of a rogue state by adhering to basic standards of international law, theto ignore decisions of international organizations and its history of mass killings

<https://archive.org/details/israel-voldoet-aan-de-definitie-van-een-schurkenstaat>

Human Rights Federation condemns Hamas terrorist attack. Hamas carried out a terrorist attack in Israel on October 7, 2023, killing approximately 1,200 people.

Israel has the right to self-defense under international law, even if Palestine is not a state.

Israel's right to self-defense is limited by the principles of necessity and proportionality.

# Intermediary Foundation of the Universal Declaration of Human Rights

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## REGISTER

House of Representatives of the States General  
The Chairman  
Drs.MA Martin Bosma  
PO Box 20018  
2500 EA The Hague

Subject: Situation in Gaza

Mierlo, July 15, 2024

I request the President of the House of Representatives of the States General - urgently - to inform members of parliament and political party factions about this letter.

After voting, the Members of Parliament rejected a motion by Member Van Baarle DENK (No. 2907  
kst-21501-02-2907 ISSN 0921 - 7371 The Hague 2024 General Affairs Council and Foreign Affairs Council  
MOTION BY MEMBER VAN BAARLE Submitted on 23 May 2024) To comply with the arrest warrant of the International Criminal Court against Netanyahu on Dutch territory.

On May 27th I sent a letter to the members of the House of Representatives. We will not get any further with the freewheeling issue of Israel vs Gaza! The recent decision of the International Court of Justice ordering Israel to immediately halt its military offensive in Rafah, after it recognized genocide as a plausible risk, and by the request of the prosecutor of the International Criminal Court to issue arrest warrants. for Israeli leaders on charges of war crimes and crimes against humanity. "In this context, the continued transfers of arms to Israel can be seen as willfully and knowingly providing assistance to operations that violate international human rights and international humanitarian law, and can result in profit from such assistance."

States and companies – including the State of the Netherlands – must immediately end arms deliveries to Israel, otherwise they risk responsibility for human rights violations.

The transfer of arms and ammunition to Israel could constitute a serious violation of human rights and international humanitarian law and risk making the state complicit in international crimes, possibly including genocide, UN experts said today, reiterating their demand for an immediate end to the transfers.

*In line with recent calls by the Human Rights Council and UN independent experts for states to cease the sale, transfer and diversion of arms, ammunition and other military equipment to Israel, arms manufacturers that supply Israel – including*

*BAE Systems, Boeing, Caterpillar, GeneralDynamics, Lockheed Martin, Northrop Grumman, Oshkosh, Rheinmetall AG, Rolls-RoycePower Systems, RTX and ThyssenKrupp – also make*

*an end to transfers, even if they are carried out under existing export licenses.*

"By sending weapons, parts, components and ammunition to Israeli forces, these companies risk being complicit in serious violations of international human rights and international humanitarian law," the experts said.

**An end to transfers must also include indirect transfers through intermediary countries that could ultimately be used by Israeli forces, especially in the ongoing attacks on Gaza.**

The UN experts said arms companies should systematically and periodically conduct enhanced human rights due diligence to ensure their products are not used in ways that violate international human rights and international humanitarian law.

Financial institutions that invest in these arms companies are also being targeted.

Investors such as Alfred Krupp von Bohlen und Halbach-Stiftung, Amundi Asset Management, Bank of America, BlackRock, Capital Group, Causeway Capital Management, Citigroup, Fidelity Management & Research, INVESCO Ltd, JP Morgan Chase, Harris Associates, Morgan Stanley, Norges Bank Investment Management, Newport Group, Raven'swing Asset Management, State Farm Mutual Automobile Insurance, State Street Corporation, Union Investment Privatfonds, The Vanguard Group, Wellington and Wells Fargo & Company are urged to take action. Failure to prevent or mitigate their business relationships with these arms manufacturers that transfer weapons to Israel could lead to the disappearance of weapons that are directly linked to and contribute to human rights violations, with implications for complicity in potential atrocities, the experts said. "Weapons initiate, sustain, exacerbate and prolong armed conflicts, as well as other forms of oppression. Therefore, the availability of weapons is an essential precondition for the commission of war crimes and human rights violations, including by private arms companies," the spokesperson said. The experts said the ongoing Israeli military onslaught is characterized by indiscriminate and disproportionate attacks on civilian populations and infrastructure, including through extensive use of explosive and incendiary weapons in densely populated areas,

as well as through the destruction and damage of essential and life-sustaining weapons, civilian infrastructure, including housing and shelters, health care, education, water and sanitation. These attacks have resulted in more than 37,000 deaths in Gaza and 84,000 wounded. Of these deaths and wounded, an estimated 70 percent are women and children. Today, children in Gaza constitute the largest child amputee population in the world, as a result of severe injuries sustained during the war. These operations have also resulted in severe damage to the environment and climate. "The need for an arms embargo on Israel and for investors to take decisive action is more urgent than ever, particularly in light of the obligations of States and the responsibilities of businesses under the Geneva Conventions, the Genocide Convention, international human rights treaties and the UN

Guiding Principles on Business and Human Rights," the UN experts said. The experts paid tribute to the continued work of journalists who have documented and reported on the devastating impact of these weapons systems on civilians in Gaza, and human rights defenders and lawyers, among other stakeholders, who work to hold states and companies accountable for transferring arms to Israel. They also engaged with states and the companies and investors involved on these issues.

I hereby request that my letter of May 27, 2024 be considered as repeated and inserted.

IFUD of Human Rights

Chair

JP van den Wittenboer



For questions regarding UN Independent Experts, you may also contact Dharisha Indraguptha (dharisha.indraguptha@un.org) or John Newland (john.newland@un.org)



Voorzitter

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Geachte heer Van den Wittenboer,

Naar aanleiding van uw schrijven van 15 juli respectievelijk 27 mei 2024 over de situatie in Gaza bericht ik u het volgende.

Uw brief van 27 mei 2024 is doorgestuurd naar de vaste commissie voor Buitenlandse Zaken. In deze commissie zitten de fractiespecialisten die namens hun fractie het woord voeren in debatten en in fractievergaderingen.

De ambtelijke ondersteuning van deze commissie heeft uw brief opgenomen in het parlementair informatiesysteem onder 2024D27054/2024Z11327 en geagendeerd voor de brievenlijst van de procedurevergadering op 5 september a.s. Ook uw brief van 15 juli zal op dezelfde wijze worden behandeld. Brieven van derden zijn op die manier voor alle leden te lezen.

Tijdens een procedurevergadering bespreekt de commissie hoe zij de ingekomen stukken wil behandelen.

Daarnaast staat het ieder Kamerlid vrij om als individueel Kamerlid actie te ondernemen naar aanleiding van brieven van derden.

Tot slot maak ik u graag attent op de mogelijkheid om Kamerleden direct te benaderen. Via de website van de Tweede Kamer vindt u de contactgegevens

[https://www.tweedekamer.nl/kamerleden\\_en\\_commissies/alle\\_kamerleden](https://www.tweedekamer.nl/kamerleden_en_commissies/alle_kamerleden)

Met vriendelijke groet,

  
Martin Bosma  
Voorzitter van de Tweede Kamer der Staten-Generaal

## NGOs shocked after PM Schoof talks: no red lines in Gaza

Prime Minister Schoof does not draw a red line on the war in Gaza. He said this in conversation with Oxfam Novib, Amnesty International, Médecins Sans Frontières, Save the Children and PAX.

[Read more](#)



Image: Robin Utrecht/ANP

We joined Prime Minister Schoof today as a united front with a joint appeal: stop looking away from the genocide in Gaza and stop unconditional support to the Israeli government. The invitation to the conversation was due to the hundreds of thousands of Dutch people who joined the '[Not in my name](#)' campaign demanding a fundamental change of course from the Schoof administration. They no longer want to be complicit in obvious war crimes or crimes against humanity leading to ethnic cleansing or even genocide.

### No red line

During the conversation, the prime minister mainly talked about what they can do as a cabinet, rather than what their duty is on behalf of international treaties. In addition, the prime minister stressed that the Netherlands is not prepared to take a principled stand on violations of international law. As far as the cabinet is concerned, there is no red line. Prime Minister Schoof does

acknowledge that (rights) violations take place, but despite this, the prime minister blindly trusts the current diplomatic track.

Whereas cabinet members can indeed speak out about war crimes committed by Russia or in Syria – with subsequent sanctions and other political pressure means – Prime Minister Schoof just does not manage to condemn an attack on innocent civilians, including children, in Gaza who are killed in their sleep by Israeli bombing. For the Netherlands, it is business as usual in trade and aid, regardless of war crimes committed by Israel, and there is hardly any pressure on the Israeli government.

## Blatant violations of international law

This double standard became painfully clear again during today's conversation. Prime Minister Schoof shows no willingness to abide by his duty to defend international law, despite the obvious violations of law by the Israeli government. As for political, military and economic consequences to these violations, we can apparently expect nothing from this cabinet. Israeli violence against humanitarian workers and their patients in Gaza is also insufficient reason for Prime Minister Schoof to issue a harsh condemnation on behalf of the Netherlands.

'I found it a disconcerting conversation,' says PAX director Rolien Sasse, 'The conversation shows that the Netherlands is still giving carte blanche to Israel.

The cabinet only wants to put pressure on Israel through diplomatic channels. So this has no consequences for Israel. The cabinet has no red line. This will allow impunity to continue. And through our military cooperation, we will remain complicit!'

## Obstructing access to essential aid supplies

Since 2 March, Israel has again blocked all aid supplies to Gaza and the Israeli government has completely cut off Gaza from electricity. The International Court of Justice ordered Israel in January 2024 to take measures to prevent genocide and allow immediate and unhindered humanitarian aid.

The current humanitarian blockade is an obvious violation of this ruling.

Moreover, deliberately preventing access to essential relief supplies and life-saving resources is a hallmark of genocide.

Prime Minister Schoof's reluctant stance is shameful. The Netherlands is among an increasingly small group of countries that remains unconditionally supportive of Israel. A country that presents itself internationally as a champion of human rights and international law should be clear when those principles are in danger. The opposite is true; the Netherlands therefore

completely forfeits its position as a champion of human rights and international law.

Our demands are clear:

- We call on Prime Minister Schoof to draw consequences for Israel's violations of international law, and to call for an EU investigation into the violations of Article 2 – the human rights clause – in the EU-Israel Association Agreement.
- The Netherlands should adjust military cooperation with Israel.
- The Netherlands should urge other states to comply with their obligations to cooperate with the International Criminal Court.
- The Netherlands must use all possible political, economic and diplomatic means to put pressure on Israel.
- We expect maximum commitment from the prime minister to end the humanitarian blockade of Gaza and provide aid workers with the protection afforded by law.

After more than 50,000 deaths, the Schoof administration can no longer remain silent.

Source: [paxforpeace.nl](http://paxforpeace.nl)

April 7- 2025

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June 6, 2025

## The Netherlands has a duty to intervene in Gaza

International law experts tell the House of Representatives that the Netherlands must act to prevent a 'serious risk of genocide'. In the case of Gaza, that risk was established in January 2024, but the Netherlands did nothing and let the genocide unfold. to execute.



The Hague, January 26, 2024. Members of the South African delegation at the first ruling of the International Court of Justice in the 'genocide case' brought by South Africa against Israel. © International Court of Justice

As a signatory to the Genocide Convention, the Netherlands is obliged to act in the event of a 'serious risk' of genocide to take action to prevent it. This duty to prevent is heavier as the

## International law experts

In short, that is the message that the House of Representatives Committee for Foreign Affairs delivered on 28 May heard from two prominent international law experts. They were invited to interpret the Dutch obligations under the Genocide Convention with regard to the Israeli violence in Gaza. In the Volkskrant one of the experts, professor, puts it this way Geert-Jan Knoops, who as follows:

*As soon as a state knows or should know that a serious risk exists, it must act. Prevention begins with foreseeability, not with evidence afterwards.*

The second expert, Associate Professor at the UvA Marieke de Hoon, speaks of a 'legally binding' obligation to combat genocide 'by all available means' prevent. Due to the close ties with Israel, the obligations for the Netherlands 'larger' than for other countries. In addition, the status as home port of the international legal order exclusive additional obligations, we add.

De Hoon mentions January 26, 2024 as the moment Knoops intended to take action: the first Pronunciation of the International Court of Justice in the case brought by South Africa against Israel tensed 'genocide case'. From that day on, the government knows that there is a 'serious risk of genocide. For over 16 months now. De Hoon has no good word for the failure of the government in its duty to prevent that genocide.

## Importance of interpretation

The experts confirm that the criterion for states to take action is linked to the determination that there is a 'serious risk' of genocide. So far the Dutch government states that 'a judge must first rule' on whether there is indeed a case is of genocide – a process of years. That argument – used to do nothing – is now finally deprived of its meaning: the Netherlands must take action.

The Volkskrant writes that De Hoon advises the government to "condemn Israel for the highly likely to commit genocide." She calls for "measures that can be effective." These include "joining the South African genocide case, ending arms exports to Israel and arms imports from Israel, and imposing sanctions and trade restrictions".





THE QUESTION OF PALESTINE

<https://archive.org/details/united-nations-the-question-of-palestine>

**Cour  
Pénale  
Internationale**  
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Criminal  
Court



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## Afterword

Anti-institutional extremists are convinced that an evil elite is in power in the Netherlands that is trying to suppress society (source: AIVD). IFUD or Human Rights is a foundation for human rights, has a statute (notarial) and a UBO registration. The foundation has no involvement with the qualification "anti-institutional extremists", and does not wish to be seen in that frame. The foundation is about defending and researching human rights, "human rights defenders", and there is no connection with activism either. The foundation also maintains the memory of the Second World War. "Hitler's Inferno. That has nothing to do with the extreme right or neo-Nazism, but with museum and education.

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